



RWANDA

August 2015

DETAILED ASSESSMENT REPORT—ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

This Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism for Rwanda was prepared by a staff team of the International Monetary Fund. It is based on the information available at the time it was completed on September 3, 2014.

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DETAILED ASSESSMENT
REPORT ON ANTI-MONEY
LAUNDERING AND
COMBATING THE FINANCING
OF TERRORISM

SEPTEMBER 3, 2014

INTERNATIONAL MONETARY FUND
LEGAL DEPARTMENT

	Contents	Page
Acronyms	6	
Preface	7	
Executive Summary	8	
1. GENERAL	11	
1.1. General Information on Rwanda	11	
1.2. General Situation of Money Laundering and Financing of Terrorism	15	
1.3. Overview of the Financial Sector	16	
1.4. Overview of the DNFBP Sector	21	
1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements	22	
1.6. Overview of strategy to prevent money laundering and terrorist financing	22	
2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES	25	
2.1. Criminalization of Money Laundering (R.1 and 2)	26	
2.1.1 Description and Analysis	26	
2.1.2 Recommendations and Comments	34	
2.1.3 Compliance with Recommendations 1 and 2	35	
2.2. Criminalization of Terrorist Financing (SR.II)	35	
2.2.1 Description and Analysis	35	
2.2.2 Recommendations and Comments	39	
2.2.3 Compliance with Special Recommendation II	39	
2.3. Confiscation, freezing and seizing of proceeds of crime (R.3)	40	
2.3.1 Description and Analysis	40	
2.3.2 Recommendations and Comments	43	
2.3.3 Compliance with Recommendation 3	43	
2.4. Freezing of funds used for terrorist financing (SR.III)	43	
2.4.1 Description and Analysis	43	
2.4.2 Recommendations and Comments	44	
2.4.3 Compliance with Special Recommendation III	45	
2.5. The Financial Intelligence Unit and its Functions (R.26)	46	
2.5.1 Description and Analysis	46	
2.5.2 Recommendations and Comments	52	
2.5.3 Compliance with Recommendation 26	52	
2.6. Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27 and 28)	53	
2.6.1 Description and Analysis	53	
2.6.2 Recommendations and Comments	58	
2.6.3 Compliance with Recommendations 27 and 28	59	
2.7. Cross-Border Declaration or Disclosure (SR.IX)	59	
2.7.1 Description and Analysis	59	
2.7.2 Recommendations and Comments	61	
2.7.3 Compliance with Special Recommendation IX	62	
3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS	62	
3.1. Risk of money laundering or terrorist financing	62	

3.2.	Customer due diligence, including enhanced or reduced measures (R.5 to 8).....	62
3.2.1	Description and Analysis.....	62
3.2.3	Recommendations and Comments	74
3.2.3	Compliance with Recommendations 5 to 8.....	76
3.3.	Third Parties and Introduced Business (R.9).....	78
3.3.1	Description and Analysis.....	78
3.3.2	Recommendations and Comments	79
3.3.3	Compliance with Recommendation 9	80
3.4.	Financial Institution Secrecy or Confidentiality (R.4).....	80
3.4.1	Description and Analysis.....	80
3.4.2	Recommendations and Comments	83
3.4.3	Compliance with Recommendation 4	83
3.5.	Record keeping and wire transfer rules (R.10 and SR.VII).....	83
3.5.1	Description and Analysis.....	83
3.5.2	Recommendations and Comments	87
3.5.3	Compliance with Recommendation 10 and Special Recommendation VII ..	88
3.6.	Monitoring of Transactions and Relationships (R.11 and 21).....	88
3.6.1	Description and Analysis.....	88
3.6.2	Recommendations and Comments:	90
3.6.3	Compliance with Recommendations 11 and 21	91
3.7.	Suspicious Transaction Reports and Other Reporting (R.13–14, 19, 25 and SR.IV). 91	91
3.7.1	Description and Analysis.....	91
3.7.2	Recommendations and Comments:	94
3.7.3	Compliance with Recommendations 13, 14, 19 and 25 (criteria 25.2), and SR.IV	95
3.8.	Internal Controls, Compliance, Audit, and Foreign Branches (R.15 and 22)	95
3.8.1	Description and Analysis.....	95
3.8.2	Recommendations and Comments:	97
3.8.3	Compliance with Recommendations 15 and 22	98
3.9.	Shell Banks (R.18)	98
3.9.1	Description and Analysis.....	98
3.9.2	Recommendations and Comments	99
3.9.3	Compliance with Recommendation 18	100
3.10.	The Supervisory and Oversight System—Competent Authorities and Self-Regulatory Organizations (SROs). Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17, and 25)	100
3.10.1	Description and Analysis.....	100
3.10.2	Compliance with Recommendations	113
3.10.3	Compliance with Recommendations 17, 23, 25, and 29	114
3.11.	Money or Value Transfer Services (SR.VI)	114
3.11.1	Description and Analysis (summary)	114
3.11.2	Recommendations and Comments	116
3.11.3	Compliance with Special Recommendation VI	116
4.	PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS.....	117
4.1.	Customer Due Diligence and Record-keeping (R.12).....	117
4.1.1	Description and Analysis.....	117
4.1.2	Recommendations and Comments	121
4.1.3	Compliance with Recommendation 12	122
4.2.	Suspicious Transaction Reporting (R.16).....	122

4.2.1	Description and Analysis.....	122
4.2.2	Recommendations and Comments	126
4.2.3.	Compliance with Recommendation 16	126
4.3.	Regulation, Supervision, and Monitoring (R.24-25).....	126
4.3.1	Description and Analysis.....	126
4.3.2	Recommendations and Comments	129
4.3.3	Compliance with Recommendations 24 and 25 (criteria 25.1, DNFBP)	129
4.4.	Other Non-Financial Businesses and Professions—Modern, Secure Transaction Techniques (R.20)	130
4.4.1	Description and Analysis.....	130
4.4.2	Recommendations and Comments	131
4.4.3	Compliance with Recommendation 20	131
5.	LEGAL PERSONS AND ARRANGEMENTS AND NONPROFIT ORGANIZATIONS .	131
5.1.	Legal Persons—Access to Beneficial Ownership and Control Information (R.33). 131	
5.1.1	Description and Analysis.....	131
5.1.2	Recommendations and Comments	137
5.1.3	Compliance with Recommendations 33	137
5.2.	Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34) 137	
5.2.1	Description and Analysis.....	137
5.2.2	Recommendations and Comments	138
5.2.3	Compliance with Recommendations 34.....	138
5.3.	Nonprofit Organizations (SR.VIII)	139
5.3.1	Description and Analysis.....	139
5.3.2	Recommendations and Comments	143
5.3.3	Compliance with Special Recommendation VIII.....	144
6.	NATIONAL AND INTERNATIONAL COOPERATION	144
6.1.	National Cooperation and Coordination (R.31 and R.32).....	144
6.1.1	Description and Analysis.....	144
6.1.2	Recommendations and Comments	146
6.1.3	Compliance with Recommendation 31	146
6.2.	The Conventions and UN Special Resolutions (R.35 and SR.I)	147
6.2.1	Description and Analysis.....	147
6.2.2	Recommendations and Comments	147
6.2.3	Compliance with Recommendation 35 and Special Recommendation I....	148
6.3.	Mutual Legal Assistance (MLA) (R.36–38, SR.V).....	148
6.3.1	Description and Analysis.....	148
6.3.2	Recommendations and Comments	154
6.3.3	Compliance with Recommendations 36 to 38 and SR.V	154
6.4.	Extradition (R.37, 39, SR.V).....	155
6.4.1	Description and Analysis.....	155
6.4.2	Recommendations and Comments	157
6.4.3	Compliance with Recommendations 37 and 39, and SR.V.....	158
6.5.	Other Forms of International Cooperation (R.40 and SR.V)	158
6.5.1	Description and Analysis.....	158
6.5.2	Recommendations and Comments	162
6.5.3	Compliance with Recommendation 40 and Special Recommendation V	163
7.	OTHER ISSUES	164

7.1.	Resources and Statistics	164
7.2.	Recommendations and Comments	165
7.3.	Other relevant AML/CFT Measures or Issues	165
7.4.	General Framework for AML/CFT System (see also section 1.1).....	165

Tables

1.	Banking Indicators for the Three Years Preceding the Assessment.....	17
2.	Microfinance indicators (in RF billion).....	17
3.	Indicators for the insurance sector provided by the authorities.....	18
4.	Activities that Constitute Predicate Offenses to Money Laundering	28
5.	Powers to Monitor and Supervise Reporting Entities.	102
6.	Financial/Prudential onsite inspections conducted by the BNR (2009–2011)	105
7.	Staffing and Budgetary Resources at the BNR	105
8.	Staffing and Budgetary Resources at the CMA.....	106
9.	Licensing Requirements Covered Under Relevant Sector Law	108
10.	Registered NGOs in Rwanda.....	132
11.	Ratings of Compliance with FATF Recommendations.....	166
12.	Recommended Action Plan to Improve the AML/CFT System.....	180

Figures

1.	BNR Organizational Chart	101
2.	CMA Organizational Chart	106

Statistical Tables

1.	Structure of Financial Sector	19
2.	Financial Activity by Type of Financial Institution	20
3.	Number of Investigations, Prosecutions, and Sanctions for the Predicate Offenses	32
4.	Number of reports received by the FIU.....	50
5.	Licensing Activities.....	111
6.	Statistics were provided with respect to companies only	132

Annexes

1.	Authorities' Response to the Assessment.....	197
2.	List of Bodies Met During the On-site Visit	198
3.	List of All Laws, Regulations, and Other Material Received.....	199
4.	Copies of Key Laws, Regulations, and Other Measures	202

ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
BNR	Rwanda Central Bank (Banque Nationale du Rwanda)
CDD	Customer Due Diligence
CPC	Criminal Procedure Code
CSP	Company Service Provider
DNFBP	Designated Non-Financial Businesses and Professions
DRC	Democratic Republic of Congo
EAC	Eastern African Community
EAPCCO	Eastern Africa Police Chiefs Cooperation Organization
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Program
FT	Financing of Terrorism
LEG	Legal Department of the IMF
MFA	Ministry of Foreign Affairs
ML	Money Laundering
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
NPO	Nonprofit Organization
NPPA	National Public Prosecutor Authority
PEP	Politically Exposed Person
RNP	Rwanda National Police
RGB	Rwanda Governance Board
SRO	Self-Regulatory Organization
STR	Suspicious Transaction Report
UN	United Nations
UNSCR	United Nations Security Council Resolution

PREFACE

This assessment of the anti-money laundering (AML) and combating the financing of terrorism (CFT) regime of Rwanda is based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the Financial Action Task Force (FATF), and was prepared using the AML/CFT Assessment Methodology 2004, as updated. The assessment team considered all the materials supplied by the authorities, the information obtained on site during their mission from June 4 to 14, 2012, and other verifiable information subsequently provided by the authorities. During the mission, the assessment team met with officials and representatives of all relevant government agencies and the private sector.

The assessment was conducted by a team of assessors composed of staff of the International Monetary Fund (IMF). The evaluation team consisted of Nadine Schwarz (LEG, team leader), Francisco Figueiroa, Carolina Claver, and Chady El Khoury (all LEG). The assessors reviewed the institutional framework; the relevant AML/CFT Laws, regulations, guidelines and other requirements; and the regulatory and other systems in place to deter and punish money laundering (ML) and the financing of terrorism (FT) through financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs). The assessors also examined the capacity, implementation, and effectiveness of all these systems.

This report provides a summary of the AML/CFT measures in place in Rwanda at the time of the mission or shortly thereafter. It describes and analyzes those measures, sets out Rwanda's levels of compliance with the FATF 40+9 Recommendations (see Table 1), and provides recommendations on how certain aspects of the system could be strengthened (see Table 2). The report was produced by the IMF as part of the Financial Sector Assessment Program (FSAP) of Rwanda. It was presented to the ESAAMLG Task Force of Senior Officials Meeting in Luanda, Angola, September 1–5, 2014 and endorsed by this organization on its plenary meeting of September 3, 2014.

The assessors would like to express their gratitude to the Rwandan authorities for their cooperation throughout the assessment mission.

EXECUTIVE SUMMARY

Key Findings

1. **Rwanda has taken considerable steps over the last years to establish a national AML/CFT framework.** It enacted, in 2008, the law on prevention and penalizing the crime of money laundering and financing terrorism (Law No. 47/2008 of 09/09/2008, the AML/CFT Law), which sets out the main AML/CFT legal framework, and, in 2011, established a financial intelligence unit (FIU), which became operational shortly before this assessment. The AML/CFT framework remains, however, unfamiliar to most of the relevant authorities and reporting entities, and more efforts should be devoted to raising awareness to the prevention and detection of money laundering and terrorist financing.
2. **Rwanda's financial sector is small and mainly dominated by banks.** The Rwandan authorities have made great progress in modernizing the financial sector, and aim at making it more attractive to foreign investors. While the risks of money laundering and terrorist financing do not appear to be particularly significant in Rwanda, further action should nevertheless be taken to bolster the legal framework, improve its implementation, strengthen overall supervision of reporting entities within the financial sector, and mitigate the potential domestic and cross-border risks.

Legal Systems and Related Institutional Measures

3. **Money laundering is criminalized in a way that largely meets the standard, but its wording is somewhat ambiguous.** According to the authorities, a prior conviction for the predicate offense is necessary to secure a conviction for money laundering, although this is not specifically required in the law.
4. **Rwanda's framework for seizing and confiscating the proceeds of crime is, for the most part, sound.** It enables the authorities to seize and confiscate all the property subject to confiscation under the standard, and, in this sense, provides the authorities with the necessary tools to remove property from the criminals' hands. This framework has, however, not been used in practice. In addition, the rights of bona fide third parties are not sufficiently protected in the case of seizure.
5. **Through recent amendments to the Penal Code, Rwanda has enhanced its legal framework to fight against terrorism and its financing.** Terrorist financing is criminalized as an autonomous offense, but this offense does not cover the provision and collection of funds from individual terrorists and terrorist organizations. In addition, there are no measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the relevant United Nations Security Council Resolutions (UNSCR), with the exception of a few letters sent by the Central Bank to banks to immediately freeze the accounts of individuals listed by the United States.
6. **Authorities competent in the analysis and investigation of money laundering, predicate crimes, and the financing of terrorism have been established, but their functions and operational independence need to be strengthened.** The FIU was established within the National Police, but its core functions and independence also need further strengthening. The relevant law enforcement agencies (LEAs) should be more proactive in tracing the illicit funds while investigating the predicate crimes to money laundering. In addition, the delineation of powers and roles between the FIU and the other LEAs

should be clearer, with the FIU focusing on the analysis of suspicious transaction reports (STRs) and the other LEAs conducting financing investigations.

7. **A declaration system for cross-border transportation of cash and bearer negotiable instruments was introduced.** However, it is not fully in line with the standard and is not being implemented.

Preventive Measures—Financial Institutions

8. **The AML/CFT Law imposes basic identification, monitoring, and record keeping requirements on a number of financial institutions.** While these obligations constitute a sound basis for a preventive framework, they lack the necessary level of detail to be effective, notably with respect to the beneficial owner (i.e., the person who ultimately owns or controls the assets held or the customer), and do not address all the elements of an adequate customer due diligence (CDD) process. Similarly, while the law imposes a general obligation for financial institutions to develop and maintain internal controls to prevent money laundering and terrorist financing, it is not sufficiently clear to be implemented. The preventive measures apply to all “reporting entities,” which, in Rwanda, do not include insurance companies and intermediaries. There are no additional requirements with respect to cross-border banking and other similar relationships, and the measures in place to deal with non-face-to-face transactions and new technologies, record keeping, and wire transfers are weak.

9. **All financial institutions other than insurance companies and intermediaries are required to report to the FIU transactions that they suspect constitute or are linked to money laundering or terrorist financing.** They are not, however, required to report attempted transactions or transactions that appear to be linked or related to individual terrorists. In addition, considering that the money laundering offense does not apply to all the designated predicate offenses, the scope of the reporting requirement is materially too narrow.

10. **Financial institutions are not subject to adequate, timely, and effective AML/CFT supervision.** While the two authorities responsible for prudential and market conduct supervision, namely the National Bank of Rwanda and the Capital Markets Authority, maintain that their functions include monitoring compliance with AML/CFT requirements and sanctioning non compliance, they have not conducted AML/CFT inspections, and could not establish the legal basis for conducting AML/CFT supervision.

Preventive Measures—Designated Non-Financial Businesses and Professions

11. **Most DNFBPs active in Rwanda are subject to the same AML/CFT preventive measures obligations as financial institutions, but do not appear to be implementing them.** The Law applies to all DNFBPs with the exception of casinos—the owners, directors, and managers of which are subject to the AML/CFT Law—but not to casinos as separate legal entities. Company formation services are provided by lawyers, accountants, and real estate agents who are all subject to the AML/CFT Law. While there appeared to be no trust-related services provided in Rwanda, a new law enabling the establishment of Rwandan trusts was expected to come into force and require trust-related services in the future.

Legal Persons and Arrangements and Nonprofit Organizations (NPOs)

12. **The authorities have made great progress in establishing a modern central registration system that captures basic information on companies and businesses created in the country.** The information is easily accessible by the authorities and the public at large, but it is not necessarily up to date and verified, and does not really seek to establish the beneficial ownership of legal entities incorporated in Rwanda. While law enforcement authorities may obtain additional information from the legal entities themselves, the latter have no obligation to maintain up-to-date information on their beneficial owners.

13. **Rwanda has strived to set a legal framework supporting the allocation and facilitation of local and international NPOs.** The norms ratified include the International Convention on Civil and Political Rights of December 16, 1966, the African Charter on Human and Peoples' Rights of June 27, 1981, and the Law N. 20/2000 of July 26, 2000 related to nonprofit making organizations. So far, 178 international non-governmental organizations (NGOs) have been registered and engage in a range of different domains of intervention such as health, education, social assistance, capacity building, microfinance, and sports.

National and International Cooperation

14. **There is no mechanism to ensure cooperation amongst the relevant authorities and coordination of the development and implementation of the AML/CFT framework.** In practice, bilateral communication takes place between some of the authorities, albeit sporadically.

15. **The legal framework, mutual legal assistance, and extradition allow for a broad range of measures to be taken on behalf of a foreign State, but apply to the fight against money laundering and terrorist financing only, and not to combating the predicate offenses.** Extradition may only be granted for persons who have been convicted of money laundering or terrorist financing, and not for persons charged of either of these offenses and pending trial. In addition, no mechanism is in place to ensure that Rwandan nationals (who may not be extradited) are prosecuted in Rwanda. In practice, the framework for international cooperation has rarely been put to the test, and a number of considerations with respect to its practical implementation remain unclear.

1. GENERAL

1.1. General Information on Rwanda

Geography and Demography

16. Rwanda is a landlocked country situated in central Africa. It is bordered by Uganda to the north, Tanzania to the east, Burundi to the south, and the Democratic Republic of Congo (DRC) to the west. Its total surface area is 26,338 square kilometers. Most of the country is savanna grassland, and its population predominantly rural. Vegetation ranges from dense equatorial forest in the northwest of the country to tropical savannah in the east. Altitude ranges from 1,000 to 4,500 meters above sea level.

17. The country has about 11,700,000 inhabitants, as of 2012, and the population is young and predominantly rural, with a density among the highest in Africa. The life expectancy is just above 58 years. Rwandans attained a high level of unity and reconciliation to the extent that they no longer consider the social and economic differences that catalyzed the 1994 genocide against Tutsis.

18. The country's principal language is Kinyarwanda, which is spoken all over the country. The official languages are Kinyarwanda, French, and English.

History

19. Rwanda became independent in 1962, after colonization by Germany (1899) and Belgium (1919). In 1961, its monarchical government was formally abolished by a referendum, and the first parliamentary elections were held. Political turmoil over the sharing of power and repeated explosions of ethnic violence have marked the country's history. These conflicts triggered the displacement of tens of thousands of Rwandese to neighboring countries from 1959 onward (1963 and 1973) and ultimately resulted, in the early 1990s, in a rebellion by the Rwandan Patriotic Front (RPF), and the 1994 Genocide. According to the authorities, the genocide claimed more than one million lives, and some two million people fled to neighboring countries, mostly to the DRC.

20. In July 1994, a transitional government of National Unity was formed and a National Assembly of the Transition was also established, comprising representatives of all the political parties in the government. A period of reconciliation and justice began, with the establishment of the International Criminal Tribunal for Rwanda (ICTR) and the reintroduction of "Gacaca," a traditional village court system. Following the installation of the new government in July 1994, more than 2.5 million exiles from previous conflicts returned to Rwanda.

21. Between 1997 and 2002, Rwanda pursued alleged genocidal forces in the DRC. Following an agreement with the DRC signed in Pretoria, South Africa, in July 2002, Rwandan troops were withdrawn and relations between Rwanda and the DRC were normalized. After the Reconciliation, refugees have returned, and most have resettled. Institutional changes aimed at rehabilitating and reconstructing the socio-economic settings and fostering the development agenda were made, such as the establishment of the National Police Force, the Human Rights Commission, the Gacaca courts, the Commission for National Unity and Reconciliation, the Demobilization and Reintegration Commission, the Gender Monitoring Observatory, the Office of the Auditor General, the Office of the Ombudsman, among others.

22. Rwanda is a member of several regional and international organizations. It is notably member of the United Nations, the African Union, the Francophonie, the Common Market for Eastern and Southern Africa, the International Conference for the Great Lakes Region, the East African Community, and the Commonwealth of Nations.

23. Rwanda has made significant progress in many areas but more needs to be done to meet all of the Millennium Development Goals (MDGs),¹ including halving its poverty by 2015.²

Economy

24. Rwanda's economy suffered heavily during the 1994 genocide, with widespread loss of life, failure to maintain the infrastructure, looting, and neglect of important cash crops. This caused a large drop in GDP and destroyed the country's ability to attract private and external investment. The economy has since strengthened, with per capita GDP (PPP) estimated at \$1,284 in 2011, compared with \$416 in 1994.³ Rwanda is a country of various natural resources, and the economy is improving from its previous status whereby it depended mostly on subsistence agriculture by local farmers using simple tools. Real GDP growth remained strong in 2012, largely driven by the service and industry sectors. Agriculture grew by a moderate 3.0 percent during the first three quarters of 2012 due to unfavorable weather conditions. The diversification of markets for tea and minerals, particularly coltan, boosted the export sector, which increased by 24.8 percent in 2012.⁴

25. Rwanda has achieved high growth and macroeconomic stability over the last decade, but poverty remains high. Growth has averaged about 8 percent a year and is projected to be in the range of 7.5–8 percent for 2012 and 2013. Inflation, though volatile, is now in low single digits, and international reserves are at comfortable levels. Recovery has resumed, while inflation remains subdued in 2010.

26. Rwanda's resilience to external shocks has also improved further—thanks to prudent policies, substantial debt relief, and heavy reliance on concessional borrowing. However, poverty remains high, with 57 percent of the population living below the national poverty line in 2006. After a large increase in 2009–2010, donor flows are expected to return to trend levels, but decline gradually over the medium term.⁵

27. Rwanda remains highly dependent on grants from its Development Partners. About 40 percent of the budget is financed by grants, adding up to 11.0 percent of GDP in 2010–2011. This could easily turn into vulnerability if donors were to reduce their foreign assistance to Rwanda in the context of the fiscal

¹<http://www.ipu.org/wmn-e/classif.htm>.

²According to the authorities, Rwanda ranked first among 48 African countries that have registered substantial progress in achieving the Millennium Development Goals as stated in ONE's 2013 continent data report.

³IMF economic outlook 2012

⁴Rwanda, in 2013 African Economic Outlook (African Development Bank, the OECD Development Centre and the United Nations Development Programme)

⁵IMF staff report on Rwanda: 2010 Article IV Consultation and First Review Under the Policy Support Instrument-Staff Report

consolidation exercises being implemented by many of them, including in connection to the sovereign debt crisis in the Euro zone. At the same time, revenues are still among the lowest in the East African Region.⁶

Government and Political System

28. The current Constitution was adopted by referendum in June 2003, and prescribes a multi-party system of government, based on universal principles, rule of law, democracy, and elections. In accordance with the Constitution, the legislative power is vested in Parliament, which consists of two chambers: the Chamber of Deputies (with 80 seats for 53 members elected by popular vote, 24 women elected by local bodies, 3 selected by youth and disability organizations) and the Senate (with 26 seats, 12 of which are elected by local councils, 8 appointed by the President, 4 by a political organizations forum, and 2 represent institutions of higher learning).⁷

29. The President of Rwanda is the head of State, and has broad powers, including creating policy in conjunction with the Cabinet, exercising the prerogative of mercy, commanding the armed forces, negotiating and ratifying treaties, signing presidential orders, and declaring war or a state of emergency. The President is elected by popular vote every seven years, and appoints the Prime Minister and, upon proposal of the latter, all other members of Cabinet. At the time of the assessment, the incumbent President was Paul Kagame, who took office in 2000.

30. The Constitution also establishes, among other institutions aimed at fostering the socio-economic agenda of the country, the office of the Ombudsman, one of whose duties is to prevent and fight corruption and other related offenses in public and private administration. All public officials (including the President of the Republic) are required by the Constitution to declare their wealth to the Ombudsman on an annual basis.

Legal System

31. The system of law of Rwanda is based on the Belgian and German civil law system and has integrated certain aspects of customary law. Parliament deliberates on and passes laws. It legislates and oversees executive action in accordance with the procedure determined by the Constitution. The courts were completely restructured in 2004, resulting in the replacement of substantially unqualified judges by newly qualified judges. At the time of the assessment, those judges had gained practical experience in several areas of law, but not in fighting money laundering and terrorist financing.

The Judiciary

32. The judicial branch hierarchy is as follows: the Supreme Court, High Courts, Intermediate Courts, Primary Court, and mediation committees. The new Constitution in Rwanda also ushered in reforms in the judiciary, such as new legislation, establishing new courts, procedures, structures, and standards, including academic and professional qualifications, as well as regulatory and administrative frameworks.

⁶<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/RWANDAEXTN/0,,menuPK:368714~pagePK:141132~piPK:141107~theSitePK:368651,00.html>

⁷<http://www.rwandahope.com/constitution.pdf>

As mentioned above, Gacaca courts were reinstated in 2001 to try cases related to the 1994 Genocide. Gacaca courts were a form of transitional justice aimed at promoting community healing by making the punishment of perpetrators faster and less expensive to the State. They exacted various penalties including compensation, and emphasized confession and forgiveness as a way to heal the wounds. The Gacaca court system ended shortly after the assessors' onsite visit to Rwanda.

The Supreme Court

33. The Supreme Court is the highest court in the country. The decisions of the Supreme Court are not be subject to appeal save in terms of petitions for the exercise of the prerogative of mercy or revision of a judicial decision. Its decisions are binding on all parties concerned whether such are organs of the State, public officials, civilians, military, judicial officers, or private individuals.

The High Court

34. The High Court has jurisdiction to try in the first instance certain serious offenses committed in Rwanda as well as some offenses committed outside Rwanda as specified by the law. There is one High Court with four Chambers, one of which deals with international and cross-border crimes.

Intermediate and Primary Courts

35. There are 12 Intermediate Courts, and 60 Primary Courts in the country.

Specialized Courts including Gacaca Courts and Military Courts⁸

- Gacaca Courts: from 2001 to 2012, the Gacaca Courts were responsible for the trial and judgment of cases against persons accused of the crime of genocide and crimes against humanity, which were committed between October 1, 1990 and December 31, 1994 with the exception of cases whose jurisdiction is vested in other courts.
- Military courts comprise the Military Tribunal and the Military High Court. The Military Court tries in the first instance all offenses committed by military personnel, irrespective of their rank. The Military High Court shall try in the first instance all offenses that constitute a threat to national security and murder committed by soldiers, irrespective of rank. The Military High Court is an appellate court in respect of decisions rendered by the Military Tribunal.

Transparency, good governance, measures to combat corruption

36. The World Bank Worldwide Governance Indicators show that there have been great achievements in the areas of control of corruption and rule of law, as both have experienced a steady increase during the last 10 years. The improvement in the control of corruption is substantiated by transparency indentation where the country is currently ranked forty-ninth out of 183 jurisdictions, whereas six years earlier it was ranked eighty-third out of 158.

⁸ Shortly after the onsite mission, the commercial tribunal and commercial high court were established by the Organic Law No 06/2012/OL of September 14, 2012, determining the organization, functioning, and jurisdictions of commercial courts.

37. The Rwandan Law No. 23/2003 of August 7, 2003 on the Prevention, Suppression, and Punishment of Corruption and Related Offences imposes fines and imprisonment on those convicted of corruption. The law was modified and complemented by Law No. 17/2005 of August 18, 2005, which established the Office of the Ombudsman, whose responsibilities, among others, are to list and publish the names of persons convicted for corruption and related offenses.

1.2. General Situation of Money Laundering and Financing of Terrorism

38. The mainly rural nature of Rwanda's economy seems to offer limited opportunities for crime that could generate substantial proceeds. Although the authorities did not provide estimates of the relative volumes of predicate crimes in the country, they mentioned that the amounts generated by crime are relatively low across the range of predicates. In addition, the government has implemented effective anti-crime and, more specifically, anti-corruption policies, such that major proceeds-generating crimes appear to be controlled in Rwanda.

39. According to the authorities, proceeds of foreign crimes are not generally found in Rwanda. Due to ongoing threats from rebels located in the DRC, Rwanda maintains a relatively large and standing army and domestic police force on the border. The authorities claim that these forces make the country's borders relatively secure against unlawful entry and smuggling, and that this, combined with foreign exchange controls and a small financial sector, greatly reduce the attractiveness of Rwanda as a place to launder the proceeds of foreign crimes.

40. The assessment team found no evidence that money laundering was a significant problem in Rwanda, but nevertheless considers that the risk of criminal proceeds—generated both in Rwanda and in neighboring countries—being laundered in Rwanda, while relatively small, is not negligible either. Domestic crimes, such as trafficking in narcotics and corruption, embezzlement of public funds, and illicit trafficking in goods and merchandise generate criminal proceeds, but because the authorities' action focuses only on the predicate crimes, the laundering activities that resulted from these crimes have not been investigated and sanctioned.

41. Similarly, assessors found no evidence that terrorist financing was a major concern in Rwanda. However, the authorities have investigated one case of terrorist financing, the results of which were not disclosed to the team. In this regard, the authorities are strongly recommended to conduct a national risk assessment, which should take into account all available information, including, but not limited to, press reports, law enforcement information, and intelligence assessments.

42. In March 2009, Rwanda passed the law on the "Prevention and Suppression of Money Laundering and Financing of Terrorism." This law establishes a legislative framework that meets the main obligations of the FATF standard, but lacks the necessary level of detail. At the time of the assessment, this legislation was still in the process of being implemented and key action elements such as the establishment of an FIU had only recently been undertaken. Awareness of the money laundering and terrorist risks and of the requirements of the AML/CFT Law was relatively low, both within the relevant competent authorities, and across the range of reporting entities. As a result, no cases of potential money laundering had been brought before the courts.

43. One case of potential terrorist financing has been investigated and it was pending before the High Court at the time of the assessment.

1.3. Overview of the Financial Sector

44. The Rwandan financial sector is small and dominated by eight commercial banks.⁹ Rwanda's 2011 FSAP notes that Rwanda was little affected by the global financial crisis, but, like its neighbors in East Africa, it is in the process of transitioning towards a more modern, competitive, open, and inclusive financial system. Following the 2005 FSAP, significant progress has been made in restructuring and modernizing the financial sectors and its legislative and regulatory framework in the context of an extensive Financial Sector Development Plan. The 2011 FSAP also notes that both the government and the Rwandan Central Bank (Banque National du Rwanda, BNR) have shown determined leadership over several years in pursuing the necessary reforms. These reforms have helped to improve the structure and operation of the banking sector, as well as the insurance and pensions sectors; to modernize the system infrastructure (monetary operations, payments systems, land and mortgage registration, insolvency, and creditor rights); and to strengthen the framework for monitoring and mitigating systemic risk. However, continued efforts are required in following up and transiting to the next generation of reforms. At the same time, the financial sector faces new challenges and changes affecting financial development and stability going forward. These reflect the authorities' stated priorities to achieve visible progress in improving access to financial services and in the provision of long-term financing to the economy. Rwanda also faces an ambitious agenda with its commitment as a member of the Eastern African Community (EAC) to further regional economic, financial, and monetary integration, with the ultimate objective of establishing a monetary union.¹⁰ The financial sector has deepened over the last decade with the ratio of private sector credit to GDP increasing six-fold to 12 percent of GDP.¹¹ Among the EAC, Rwanda has the lowest financial market depth as measured by either the ratio of private sector credit to GDP or bank deposits to GDP. Survey results also show that some 80 percent of the population, mostly in the rural areas, does not have formal access to financial products. The authorities are taking steps to improve access to finance, and have recently granted licenses to some 400 Savings and Credit Cooperatives (SACCOs) to operate as deposit-taking institutions, with a view to granting them lending licenses as well.¹² According to the FSAP, as of September 2010, total assets of the banking sector accounted for about RF 644 billion or 60 percent of total assets in the financial system. Although the largest number of financial institutions are composed of microfinance institutions (MFIs) and Old SACCOs and Umurenge SACCOs (109 and 416 institutions, respectively), there was no financial information available supporting the total assets within the Umurenge SACCOs. Total assets for the MFIs and Old SACCOs accounted for another eight percent of total assets in the financial system. Against this

⁹ Although no figures were provided on the size of the various sectors, Rwanda's 2011 FSAP established that, as of September 30, 2010, the financial system was dominated by the eight commercial banks, which held a total of RF 644 billion.

¹⁰ Rwanda—Financial System Stability Assessment, August 2011, IMF Country Report No 11/244.

¹¹ IMF staff report on Rwanda: 2010 Article IV Consultation and First Review Under the Policy Support Instrument-Staff Report.

¹² These findings are based on the 2011 FSAP. According to the authorities, a second survey conducted in 2012 indicated that the percentage of adult population having access to formal financial services has increased from 21.1 percent in 2008 to 42 percent in 2012, while the percentage of adult population informally served has increased from 26.4 percent in 2008 to 29.8 percent in 2012.

background, and considering that data was not available, the assessment focused on the banking sector as the most significant sector.

Banking and nonbanking institutions

45. The financial services sector is small in Rwanda. Therefore, although the banking sector dominates the financial services sector and controls over 73 percent of the total financial sector assets, Rwanda still has a rather shallow banking sector with a ratio of bank assets to GDP of only 19.7 percent. At the time of the assessment, Rwanda had nine commercial banks, one development bank that merged with the mortgage financing bank in 2011, three microfinance banks, and one cooperative bank. The following table, provided by the authorities, includes the banking indicators for the three years preceding the assessment:

Table 1. Banking Indicators for the Three Years Preceding the Assessment

Indicators	December 2009	December 2010	December 2011
Solvency ratio (total capital)	21.0	24.4	27.2
NPLs/Gross loans	11.9	10.8	8.0
NPLs Net / Gross loans	10.0	9.3	7.0
Return on average assets	1.0	2.0	2.2
Return on average equity	5.5	11.2	10.6
Cost of deposits	2.3	2.7	2.4
Liquid assets/total deposits	68.1	58.2	45.3
Forex exposure/core capital	0.9	5.0	6.6

Microfinance Institutions (MFIs)

46. In December 2011, total assets of the microfinance sector increased by 12 percent, and gross loans and deposits increased by 17 percent and 4 percent, respectively. In 2011, two MFIs were upgraded to microfinance banks. MFIs serve 8 percent of depositors and 90 percent of borrowers.

Table 2. Microfinance indicators (in RF billion)

Indicators	December 2010	December 2011
Total assets	43	48.2
Gross loans	32.3	37.8
Non-performing loans	3.6	4.2
Deposits	23	24
Equity	14.9	15.3
NPL rate	11%	11.3%
Liquidity ratio	55.5%	56.9%
Capital adequacy ratio (solvency)	34.5%	31.7%

Money transfer services

47. Money transfer services are allowed to operate through licensed banks (as is the case for MoneyGram and Western Union) or independently. At the time of the assessment, 14 money transfer service providers were authorized to operate independently.

Foreign Exchange (Forex) Dealers

48. As of June 2012, there were 97 forex bureaus in the system.

Securities

49. As of June 2012, there were seven securities intermediaries members of Rwanda's Stock Exchange. The CMA has licensed eight securities intermediaries who are operational in Rwanda.

Insurance

50. The insurance sector is quite small. At the time of the assessment, two insurance companies were providing life insurance.

51. There were also eight insurers (six private and two public), five insurance brokers, and 102 insurance agents. According to the authorities, insurance penetration was about 2.3 percent, and the insurance sector performance had been improving progressively over the previous years. Total assets increased, as well as the gross premiums and profits.

**Table 3. Indicators for the insurance sector provided by the authorities
(in RF billions)**

Indicators	Dec. 2010	Dec. 2011
Total assets	128.2	143.7
Total capital	85	94.9
Total gross premiums	50	60.2
Underwriting profit	7.1	11.9
Total net profit	16	21.4
Claims ratio in per cent	44	41.9
Combined ratio in per cent	81	78
Current ratio (per cent)	272	242.9
Return on equity ratio (ROE) in per cent	17	18.5
Return on assets ratio (ROA) in per cent	11	11.8

Overview of the financial sector

Statistical Table 1. Structure of Financial Sector

	Number of Institutions	Total Assets (\$ million)	Authorized/ Registered and Supervised by:
Commercial banks	9		RDB/BNR
Mortgage banks			
Investment companies			
Collective investment associations			
Life insurance companies and occupational pension funds	2		RDB/BNR
Company pension funds	1		BNR
Insurance brokers	5		BNR
E-Money			
Savings institutions	416		RCA/BNR
Foreign exchange	97		RDB/B NR
Money transmitters			
Leasing and factoring			
Credit cards etc.			
Postal services			

52. According to the authorities, commercial banks, mortgage banks, life insurance companies, and investment companies established in Rwanda did not have branches or subsidiaries abroad.

53. The following table sets out the types of financial institutions that can engage in the financial activities that are within the definition of “financial institutions” in the FATF 40+9.

Statistical Table 2. Financial Activity by Type of Financial Institution

Type of financial activity (See glossary of the 40 Recommendations)	Type of financial institution that performs this activity	AML/CFT regulator and supervisor
1. Acceptance of deposits and other repayable funds from the public (including private banking)	1. Banks	1. BNR
2. Lending (including consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfeiting))	1. Banks 2. Credit card companies 3. Factoring and finance/consumer credit	1. and 2. BNR
3. Financial leasing (other than financial leasing arrangements in relation to consumer products)	1. Banks 2. Leasing companies	1. and 2. BNR
4. The transfer of money or value (including financial activity in both the formal or informal sector (e.g., alternative remittance activity), but not including any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds)	1. Banks 2. Money remitters	1. and 2. BNR
5. Issuing and managing means of payment (e.g., credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, and electronic money)	1. Banks 2. Credit cards companies 3. Electronic money institutions	1. to 3. BNR.
6. Financial guarantees and commitments	1. Banks	1. BNR
7. Trading in: (a) money market instruments (cheques, bills, CDs, and derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; (d) transferable securities; (e) commodity futures trading	1. Banks (for a to c) 2. Investment companies (for a) 3. Brokers (for d) (e) does not apply in Rwanda	1. BNR 2. CMA 3. CMA
8. Participation in securities issues and the provision of financial services related to such issues	1. Banks 2. Investment companies	1. BNR 2. CMA
9. Individual and collective portfolio management	1. Banks 2. Investment companies and Investment associations	1. BNR 2. CMA
10. Safekeeping and administration of cash or liquid securities on behalf of other persons	1. Banks 2. Investment companies and Investment management companies.	1. BNR 2. CMA
11. Otherwise investing, administering or managing funds or money on behalf of other persons	1. Banks	1. BNR

12. Underwriting and placement of life insurance and other investment related insurance (including insurance undertakings and to insurance intermediaries (agents and brokers))	1. Life insurance companies 2. Lateral pension funds 3. Life insurance agents and brokers	1. to 3. BNR
13. Money and currency changing	1. Banks 2. Foreign exchange offices	1. and 2. BNR

1.4. Overview of the DNFBP Sector

54. Under Article 3 of the AML/CFT Law, the following categories of DNFBPs are included as reporting entities: members of the private legal practice when they represent or assist their clients outside of a judicial in specific circumstances;¹³ auditors;¹⁴ real estate agents; traders in items of significant value, such as works of art (i.e., paintings, masks as well as precious stones and metals); and owners, directors and managers of casinos and gambling halls, including national lotteries.

55. In May 2011, the FIU was designated as the authority “required to check if the reporting entities which are not under any supervisory body, fulfill the obligations set out in the AML/CFT Law” (Article 13 of the Presidential Order No. 27/01 of May 30, 2011). Since then, all the categories of DNFBPs as designated under the AML/CFT Law fall under the supervision of the FIU. However, as of the mission date, the FIU had not started monitoring or supervising the DNFBPs’ implementation of their AML/CFT obligations.

Dealers in precious metals and dealers in precious stones

56. Rwanda produces some precious stones, such as coltan, wolfram, and castrate, among others. However, no estimates were provided on the size of this production. The country produces no precious metals or gems, and there did not appear to be a significant retail jewelry sector.

Lawyers and Notaries

57. The legal profession in Rwanda consists of lawyers and notaries. Advocates primarily advise on litigation and do not typically serve in an investment advisory capacity or otherwise act as financial intermediaries for clients. Notaries are state employees and are based at district and sector levels; their activities are generally restricted to matters regarding legal documentation and do not include acting as financial intermediaries. As of the mission date, there were 738 lawyers and 479 public notaries.

Accountants

58. As of the mission date, there were 289 registered Certified Public Accountants (CPAs), 124 registered Certified Accounting Technicians (CATs), 36 Practitioners, and 32 Audit Firms. The

¹³a) Buying and selling of properties, trading companies or businesses; b) handling of money, securities and other assets belonging to clients; c) opening and management of current savings or securities accounts; d) formation, management or directing of companies, trusts or other similar ventures or the execution of any other financial transactions.

¹⁴The authorities informed that the terms “auditors and accountants” are interchangeable under the AML/CFT Law.

Rwandan accounting sector is very small and is primarily limited to providing accounting services.

Casinos, real estate agents, or trust and company service providers (CSPs)

59. The country's first (and only) casino has recently become operational. Real estate agents are organized in associations and registered by the Rwanda Development Board (RDB). As of the mission date, there were four real estate companies. There are no trust and CSPs operating in Rwanda, but company formation services are typically rendered by lawyers, real estate agents, or accountants.

1.5. Overview of commercial laws and mechanisms governing legal persons and arrangements

60. Rwanda has a central registration system in place, which provides basic information on companies at the time of their incorporation but does not include information on the beneficial ownership of companies. Additional information on companies and on other types of legal persons that may be established under Rwandan law (namely cooperatives and NGOs) may be obtained by law enforcement authorities from the legal entity itself, but, due to the lack of relevant requirements in law, there is no guarantee that that information will be up to date and will pertain to the legal entity's beneficial ownership.

1.6. Overview of strategy to prevent money laundering and terrorist financing

AML/CFT Strategies and Priorities

61. The Rwandan authorities, in particular the BNR and the FIU, are very engaged in safeguarding the reputation of the financial system and protecting the system from potential money laundering and terrorist financing risks. Nevertheless, there is no AML/CFT strategy or priorities in Rwanda that would identify specific objectives or measures that the Government of Rwanda anticipates taking to combat money laundering and terrorist financing.

Institutional Framework for Combating Money Laundering and Terrorist Financing

(i) Committees, Ministries, or other bodies to coordinate AML/CFT action

62. AML/CFT Advisory Board—FIU: There is no national committee or policy council responsible for establishing and coordinating a comprehensive action plan or strategy addressing major AML/CFT initiatives to counter financial crime, which involves all stakeholders in Rwanda. The intention, however, is for the newly established FIU to take the lead in the country's AML/CFT strategy. The FIU is located at the central bank premises, but is part of the Rwanda National Police. It is organized into two administrative areas, namely the Advisory Board and the Management. The FIU Advisory Board is comprised of a Chairperson (i.e., the Governor of the BNR), a Vice Chairperson, five other members, and the Director of the FIU. These individuals are appointed by a Prime Minister's Order upon request from the Minister in charge of Internal Security. The FIU Advisory Board is responsible for advising the FIU in the following issues:

- Proposing measures aimed at enabling the FIU to fulfill its mission;
- Updating the legislation relating to the fight against money laundering and financing of terrorism;

- Establishing internal rules and regulations of the FIU;
- Proposing agreements with other FIUs;
- Monitoring and evaluating achievements in the FIU in order to assess the adequacy of existing measures or to modify them wherever necessary; and
- Giving a quarterly (or at any time deemed necessary) report to the Minister in charge of Internal Security.

63. Ministry of the Internal Security: The Ministry is composed of two independent entities, namely the Rwanda National Police and the Rwanda Correctional Service. Economic and financial crimes are investigated by the Crime Investigation Department (CID); money laundering and terrorist financing cases are investigated by the FIU, while terrorist acts are investigated by the Anti Terrorist Unit. All three agencies are part of the National Police.

64. Ministry of Justice: The Ministry is responsible for legislation and liaises with other government departments and relevant parties when drafting legislation. It is also responsible of monitoring the public notaries.

65. Ministry of Trade and Industry (MINICOM): The Ministry is responsible for licensing and regulating those forms of gambling in Rwanda that are made lawful by way of Law No. 58/2011 governing the gaming activities. Under the gaming law, lottery, casinos, gaming machines, sport books, an internet gaming are regulated gambling activities.

66. Ministry of Foreign Affairs (MFA) and Cooperation: The Ministry is responsible for making arrangements for the negotiation and signature of conventions and agreements as well as for contributing to their implementation, and for the transmission of the UNSCR lists to the Ministry of Justice that forwards them to the National Police.

(ii) Law enforcement, criminal justice, and operational agencies

67. National Public Prosecutor Authority (NPPA): The NPPA is responsible for the prosecution of criminal offenses committed in Rwanda. The prosecution service has its headquarters in Kigali and is represented at 12 intermediate levels and 60 primary levels. A specialized unit at headquarters is in charge of investigating and prosecuting economic and financial crimes, including money laundering and other related offenses. The Prosecutor General is assisted by his deputy, 16 public prosecutors with national competence, and 5 inspectors. There are 72 public prosecutors at the intermediary levels and 60 prosecutors at primary levels. NPPA has the Economic and Financial Department responsible for ML cases.

68. National Police of Rwanda: The Rwanda National Police is responsible for the maintenance of law and order and public security. It has monopoly over preliminary investigations. The Judicial Police conducts investigations under the supervision of the NPPA. The Rwanda National Police is organized at a

national level, and is headed by an Inspector General. The total force numbers between 8,000 and 10,000 police officers.¹⁵

69. Rwanda Revenue Authority (RRA): The RRA was established pursuant to Law No. 08/2009 of 27/04/2009. It participates in setting taxes and is responsible for collecting, controlling, and managing taxes. The Investigation Department at the RRA is responsible for the conduct of investigations into tax evasion and tax fraud cases. It has judicial powers to investigate these cases in cooperation with the customs agents present at the border entry and exit points.

70. Rwanda Governance Board (RGB): The role of the RGB is to promote good governance principles in the political, public, corporate, and non-governmental domains. It holds the commercial register for legal persons and is responsible for registering and monitoring local non-governmental and religious organizations.

71. FIU: As mentioned above, the Rwandan FIU is a law enforcement (police) unit. It was established pursuant to Presidential Order No. 27/01 of May 30, 2011 adopted by the cabinet meeting of January 19, 2011, and became operational shortly before this assessment. The FIU is also the regulator and designated competent supervisory authority, pursuant to Presidential Order No. 27/2011, with respect to compliance with all AML/CFT obligations for all DNFBPs without an established supervisory authority (in Rwanda, these include lawyers, notaries, accountants, real estate agents, dealers in precious metals and stones, currency transporters, casino owners, directors and managers, travel agencies, and nongovernmental organizations).

(iii) Financial Sector and DNFBP Bodies

72. Rwanda National Bank (BNR): The BNR is the prudential regulator of banks, microfinance, insurance companies and agents, pension plans, *bureaux de change*, and payment system/services providers. It was not, however, designated to supervise these persons and entities for AML/CFT purposes. The BNR also houses the FIU.

73. Capital Markets Authority (CMA): The CMA, established in June 2011, is the regulator of brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency.

74. Kigali Bar Association (KBA): Practicing professionals such as advocates (lawyers who are members of the Bar Association and qualified to practice law) and accountants are also subject to oversight by its self-regulatory organizations—the KBA.

75. Institute of Chartered Public Accountants of Rwanda (ICPAR): Accounting professionals are also subject to oversight by ICPAR, but this oversight does not include AML/CFT-related issues.

76. Real Estate Agents: There is no self-regulatory organization for real estate agents.

¹⁵ The number of police officers was increased significantly after this assessment and, as of August 2014, was between 8,000 and 10,000.

77. Company service providers: Company services may be provided by lawyers, accountants, and real estate agents.

Approach Concerning Risk

78. Rwanda has not adopted an overall risk-based approach in its AML/CFT framework, and the authorities have not conducted an overall assessment of the potential ML and TF risks that exist in Rwanda. The current AML/CFT legal and supervisory framework has, therefore, been developed without considering Rwanda's money laundering and terrorist financing risks.

79. Both the BNR and the CMA were at a very early stage of implementation of AML/CFT matters at the time of the onsite visit. There were some AML/CFT Regulations drafted, but these were not shared with the mission to determine the scope of the regulations and whether they were drafted in line with a risk-based approach.

Progress since the previous AML/CFT assessment

80. Rwanda underwent an assessment of its AML/CFT framework by the World Bank in 2005, but the authorities did not agree to the publication of the detailed assessment report. Since 2005, Rwanda took significant steps to enhance its AML/CFT framework, notably by enacting, in 2008, the Prevention and Penalizing the Crime of Money Laundering and Financing Terrorism Law No. 4/2008 (the AML/CFT Law), and, in 2011, by establishing an FIU through Presidential Order No. 27/01 of May 2011.

2. LEGAL SYSTEM AND RELATED INSTITUTIONAL MEASURES

Laws and Regulations

81. Rwanda's AML/CFT framework is based on the law No 47/ 2008 of 09/09/2008, on prevention and penalizing the crime of money laundering and the financing of terrorism (hereinafter the AML/CFT Law), the Organic Law No 01/2012/OL of 02/05/2012 instituting the Penal Code (hereinafter the PC), and the Law No 45/2008 of 09/09/2008 on Counter Terrorism (hereinafter the CT law).

82. The legal framework criminalizes money laundering and terrorist financing, establishes the provisional measures that may be taken, allows for confiscation, and sets a basic framework for international cooperation in the fight against both money laundering and terrorist financing.

83. The current PC came into force in June 2012. It repealed the pre-existing Decree-Law No 21/77 of August 18, 1977 instituting the Penal Code, as well as "any prior legal provision" that contradicts its content (Article 765). However, an offense committed prior to the publication of the PC in the Official Gazette (i.e., prior to June 14, 2012) is punishable under the original law unless the PC provides for lesser penalties. Pursuant to Article 5 of the PC, when several laws punish the same offense, the specific law takes precedence over the general law, unless the law provides otherwise.

84. Money laundering is currently criminalized in very similar terms under both the PC and the AML/CFT Law. The Preamble of the new PC refers to specific Articles of the AML/CFT Law (namely articles 4, 48–53, 57–59, and 61) as having been "reviewed." According to the authorities, this should be understood as "repealed" and also means that all the articles of the AML/CFT Law that are not specifically listed in the Preamble are still in force.

85. To date, money laundering has not been sanctioned by the courts. There is therefore no experience in the implementation of the money laundering offense and no case law that would establish the courts' understanding of the AML legal framework. One case of terrorist financing has been investigated and prosecuted, but as an ancillary offense to terrorism under the CT law rather than as an autonomous offense under the AML/CFT Law.

2.1. Criminalization of Money Laundering (R.1 and 2)

2.1.1 Description and Analysis

Legal Framework:

86. The AML/CFT Law and the PC.

Criminalization of Money Laundering (c. 1.1—Physical and Material Elements of the Offense):

87. Rwanda defined money laundering in Articles 652 of the PC and Article 2 of the AML/CFT Law, and set out the relevant sanctions in Articles 654 and following of the PC. The definition of money laundering (i.e., the list of activities that constitute money laundering) is very similar in both texts, with only minor discrepancies in the wording that do not affect the substance of the offense.¹⁶ According to the Constitution,¹⁷ the provision of the PC prevails over the AML/CFT Law.

88. Article 652 defines money laundering as “one or several of the following acts committed deliberately:

- the conversion, transfer or handling of property whose author knows that they are derived from a misdemeanor or a felony, or from an act of participation in such offences, for the purpose of concealing or disguising the illicit origin of the property or of;
- assisting any person involved in the commission of such an offence to escape justice;
- the concealment or disguise of the true nature, origin, location, disposition, donation, rights with respect to or ownership of property, knowing that such a property is derived from felony or misdemeanor crimes or from an act of participation in such offences;
- acquisition, possession or use of property, knowing, at the time of receipt, that such a property is derived from felony or misdemeanor crimes or from an act of participation in such offences;
- participation in, association to commit, attempts to commit, aiding, inciting, abetting, facilitating or counseling the commission of any of the acts set forth in accordance with this Article.”

¹⁶According to Article 93 paragraph 7 of the Constitution, the organic law prevails over an ordinary law.

¹⁷According to Article 93 paragraph 7 of the Constitution, the organic law prevails over an ordinary law.

89. Article 652 also provides that money laundering is committed “even if the original acts leading to the acquisition, disposition or transfer of the property to be laundered or the protection of the offender are carried out in the territory of a third State.”

90. The sanctions for money laundering are set out in Article 654 of the PC (and in the AML/CFT Law), as described under Recommendation 2 below.

91. Both in the PC and in the AML/CFT Law, the money laundering offense is drafted in terms that are very similar to those of the relevant articles of the Vienna and Palermo Conventions (to which Rwanda is a party). It covers all the elements set forth in Articles 3(1) (b) of the Vienna Convention and 6(1) of the Palermo Convention, except the concealment and disguise of the movement of property (although this could be covered, in practice, by other elements of the offense).

The Laundered Property (c. 1.2):

92. The term “property” is defined, in line with the standard, under Article 2.9 of the AML/CFT Law as “an asset of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, as well as legal documents or instruments evidencing the existence of a right to, or interest in an asset.” The term “proceed” is defined in Article 2.8 of the AML/CFT Law as “property which directly or indirectly is derived from the offence.”

Proving Property is the Proceeds of Crime (c. 1.2.1):

93. Neither the PC nor the AML/CFT Law addresses the need—or not—to obtain a prior conviction to secure a conviction for money laundering. Considering that no money laundering charges have been brought before the Rwandan courts, there is no case law that would clarify the type or the level of proof that would be required. According to the representatives of the NPPA, Article 119¹⁸ of the Law on evidences provides that prosecutors have the power to provide evidence by any means; however, it would, in their opinion, be very difficult in most cases to convict someone based on factual, objective circumstances: they affirmed that prosecutors and judges would not be satisfied that the property is proceeds of crime unless there is a conviction for the predicate crime.

The Scope of the Predicate Offenses (c. 1.3):

94. The PC adopts an all crimes approach to money laundering by referring, in the offense, to property “derived from a misdemeanor or a felony.” This provision of the PC prevails over the AML/CFT Law, however, that defines money laundering in terms similar to those used in the PC, also specifies that, for the purposes of the implementation of the law, “money or property is illicit” when it is derived from the commission of any of the offenses specifically listed in its Article 5. According to the authorities, because Article 5 is not mentioned in the Preamble to the PC as having been “reviewed,” it remains in force but the general provisions of the PC prevail since it is an organic law.

95. The table below indicates the activities that constitute predicate offenses to money laundering.

¹⁸“Article 119: In criminal cases, evidence is based on all grounds, factual or legal provided that parties have been given a chance to be present for cross-examination. The courts rule on the validity of the prosecution or defense evidence.”

Table 4. Activities that Constitute Predicate Offenses to Money Laundering

Category of offense	Predicate Offense to ML	Criminalization in Rwanda	Relevant provision in the Penal Code
Participation in an organized criminal group and racketeering	Yes	Criminalization of criminal gangs only (not fully in line with the Palermo Convention)	Articles 681 to 683 of the PC
Terrorism, including terrorist financing	Terrorism and FT: Yes	Yes (see shortcomings of FT offense below)	Terrorism: Article 169, 488, and Articles 497 to 528 of the PC Terrorist financing: Article 653 of the PC.
Trafficking in human beings and migrant smuggling	Yes	Yes	Articles 250 to 256 of the PC.
Sexual exploitation, including sexual exploitation of children	Yes	Yes	Articles 190 and followings and article 206 of the PC.
Illicit trafficking in narcotic drugs and psychotropic substances	Yes	Yes	Articles 593 to 598 of the PC.
Illicit arms trafficking	Yes	Yes	Articles 670 to 680 of the PC.
Illicit trafficking in stolen and other goods	Yes	Yes	Article 326 of the PC.
Corruption and bribery	Yes	Yes	Articles 633 to 651 of the PC.
Fraud	Yes	Yes	Articles 310, 318-320 and 333-335 of the PC.
Counterfeiting currency	Yes	Yes	Articles 601 to 604 of the PC.
Counterfeiting and piracy of products	Yes	Yes	Article 382 of the PC.
Environmental crime	Yes	Yes	Articles 389-437 of the PC.
Murder, grievous bodily injury	Yes	Yes	Murder: Article 140 of the PC. Grievous Bodily Injury: Article 149 of the PC.
Kidnapping, illegal restraint and hostage-taking	Hostage taking: Yes Kidnapping and illegal restraint: Yes	Yes	Kidnapping: Articles 273 and 274 of the PC. Hostage taking: 508 of the PC.
Robbery or theft	Theft with the use of	Yes	Articles 292 and 304

	violence: Yes Theft without the use of violence: No		of the PC.
Smuggling	Yes	Yes	Article 369 of the PC
Extortion	Extortion with the use of violence: Yes Extortion without the use of violence: No	Yes	Article 299 of the PC.
Forgery	Yes	Yes	Article 382 of the PC
Piracy	Yes	Yes	Article 519
Insider trading and market manipulation	Offense on the stock market or irregular public issue of shares: Yes	Yes	Article 355 of the PC.

Threshold Approach for Predicate Offenses (c. 1.4):

96. The PC adopts an all crimes approach to money laundering by referring, in the offense, to property “derived from a misdemeanor or a felony” This meets the threshold, since according to Articles 22 and 23 of the PC, a felony is an offense punishable under the law by a main penalty of an imprisonment of more than five years, and the misdemeanor is the offense punishable under the law by a main penalty of an imprisonment of six months to five years.

Extraterritorially Committed Predicate Offenses (c. 1.5):

97. The last paragraph of Article 652 of the PC criminalizing ML indicates that “ML is committed even if the original acts leading to the acquisition, disposition or transfer of the property to be laundered or the protection of the offender, are carried out on the territory of a third State.” The text is limitative because it does not extend to all the paragraphs under the Article, but according to the authorities, is to be interpreted in a broad way (in particular the reference to “acts leading to (...) the protection of the offender”) and applies to all the activities that may constitute ML.

Laundering One’s Own Illicit Funds (c. 1.6):

98. The AML/CFT Law and the PC make no distinction between self-laundering and third party laundering. According to the authorities, no fundamental principle of the law would prohibit them from prosecuting and convicting the person who committed both the predicate and the ML offenses. In the absence of case law, however, it is unclear whether prosecutors and judges will apply the ML offense to the perpetrator of the predicate offense.¹⁹

Ancillary Offenses (c. 1.7):

99. Article 652.d of the PC provides that the participation in, association to commit, attempts to commit, aiding, inciting, abetting, facilitating or counseling the commission of any of the acts set forth in the definition of money laundering also constitute the money laundering offense.

¹⁹According to the authorities, following the assessment, one person was convicted for self-laundering.

Additional Element—If an act overseas which do not constitute an offense overseas, but would be a predicate offense if occurred domestically, lead to an offense of ML (c. 1.8):

100. As mentioned above under criterion 1.5, Article 652 of the PC and Article 2 paragraph 1 (last sentence) of the AML/CFT Law provide that the ML offense may also be committed in instances when the “original acts” are committed abroad. The wording of both laws is broad and does not require criminalization in the third country as a condition for its application; it therefore meets this additional element.

Liability of Natural Persons (c. 2.1):

101. The money laundering offense applies to those who intentionally engage in one (or more) of the money laundering activities listed above, knowing that such a property is derived from a felony or misdemeanor or from an act of participation in such offenses (Article 652 of the PC).

The Mental Element of the ML Offense (c. 2.2):

102. The authorities explained that for Article 652 of the PC to apply, prosecutors would have to establish that the perpetrator knew that the property is derived from a felony or a misdemeanor or from an act of participation in such offenses. This would mean that prosecutors would have to establish that he or she had general knowledge of the underlying criminal source of the property. In the absence of case law, the authorities were of the view that judges would not be satisfied that the perpetrator knew that the property was illicit unless a prior conviction for the predicate crime proves his or her knowledge. Objective factual circumstances would most probably not be enough to secure a conviction for money laundering.

Liability of Legal Persons (c. 2.3):

103. The PC recognizes the principle of criminal liability of legal persons for several offenses, including money laundering (Article 656).

Liability of Legal Persons should not preclude possible parallel criminal, civil or administrative proceedings (c. 2.4):

104. According to Articles 131,132, and 138 of the criminal procedure code (CPC), liability of legal persons does not preclude possible parallel criminal, civil, or administrative proceedings.

Sanctions for ML (c. 2.5):

105. The sanctions for money laundering are set out in the PC and are generally consistent with the sanctions applicable to other economic crimes under Rwandan law. In the absence of aggravated circumstances, any natural person who commits money laundering or is an accomplice is liable to a term of imprisonment of more than five years to seven years and a fine of two to five times the value of the amount of the laundered sums. The AML/CFT Law provided for a more dissuasive sanction (imprisonment from five to ten years and of up to ten times the amount of the laundered sums) in its

Article 48, but this provision, together with other penalties laid out in the AML/CFT Law, are no longer in force since the entry in force of the 2012 PC.²⁰

106. In aggravated circumstances (Article 657 of the PC) the sanction available may be doubled. The aggravated circumstances are met if the ML offense was committed repeatedly, in the course of employment, or within the framework of an organized criminal conspiracy, or if the predicate offense is punishable by a term of imprisonment higher than the one for money laundering offense.

107. Pursuant to Article 656: "Public or private companies, enterprises, organizations or associations with legal personality which commit an offence of money laundering or financing of terrorism, through their representatives, shall be liable to a fine equal to twice the fine applicable to individuals, without prejudice to the liability for complicity of its representatives. The legal entity, depending on the gravity of the events, may also be sentenced to:

- prohibition from direct or indirect involvement in specific professional activities;
- suspension for not less than five (5) years; and
- dissolution when established as a criminal organization.

The court's decision should be published in newspapers and through other means used by the media."

108. Article 32 and following of the PC provide sanctions against legal persons. "Penalties applicable to State institutions, public or private companies, enterprises, associations or organizations with legal personality shall be the following: dissolution; fine; temporary prohibition or for a long time from carrying out one or several professional or social activities; temporary prohibition or for a long time from carrying out one or several activities in a specific zone; permanent closure of the enterprises in which criminal acts were committed or which were used to commit such acts; exclusion from public procurement, on a permanent basis or for a period not exceeding five (5) years; prohibition to issue a check, a credit card or a negotiable instrument; confiscation of the object which was used in or intended for use in committing the offence or was the product of the offence; placement under judicial supervision; and publication of the decision by any media." Article 656 of the PC prevails in the cases of money laundering and the financing of terrorism.

Statistics (R.32):

109. The authorities' experience in investigating, prosecuting, and sanctioning money laundering is scant: One case of alleged money laundering has been disclosed by the FIU to the NPPA and was under investigation at the time of the assessment. No money laundering cases were prosecuted and brought before the courts. The authorities provided the following statistics related to the number of investigations, prosecutions, and sanctions for the predicate offenses:

²⁰All the penalties were lowered as a general policy under the new penal code.

Statistical Table 3. Number of Investigations, Prosecutions, and Sanctions for the Predicate Offenses

OFFENSES	Received case files (from the police)	Cases handled by prosecutors	
		Submitted cases (to court)	Closed cases
Terrorism	8	3	1
Corruption and related offences	209	116	19
Embezzlement of public funds	150	73	11
Illicit trafficking in narcotics	3500	2285	251
Illicit trafficking in weapons			
Illicit trafficking in goods and merchandise	111	48	8
Trafficking in illegal labor			
Trafficking human being	2	0	0
Exploitation of prostitution			
Illicit use of hormonal, anti-hormonal, beta adrenergic or production stimulating substances on animals or illegal trade in such substances			
Illicit trafficking in human organs and tissues			
Offence related to the stock market or irregular public issue of shares			
Financial fraud	525	192	30
Hostage-taking			
Theft or extortion with use of violence or threats			
Fraudulent bankruptcy			

OFFENSES	Number of verdicts	Number of accused	Number of acquittals	Penalties [by years of imprisonment]				Fine	Suspension of sentence
]0-1[[1-5]]5-10[[10-15]		
Terrorism									
Corruption	153	229	64	7	134	5	7	1	11
Embezzlement of public funds	169	254	85	7	101	15	22	0	24
Illicit trafficking in narcotics	2001	2349	106	1012	997	14	0	156	64
Illicit trafficking in weapons									
Illicit trafficking	59	67	0	45	10	0	0	6	4
Trafficking in illegal labor									
Trafficking in human beings									
Exploitation of prostitution									
Illicit use of hormonal, anti-hormonal, beta adrenergic or production stimulating substances on animals or illegal trade in such substances									
Illicit trafficking in human organs and tissues									
Offence related to the stock market or irregular public issue of shares									
Financial fraud	188	252	45	46	150	0	0	9	2
Hostage taking									
Theft or extortion with use of violence or threats									
Fraudulent bankruptcy									

110. Although they do not hold specific statistics in this respect, the authorities mentioned that, in their recollection, the amounts involved in these crimes were, in most instances, small.

Implementation and Effectiveness:

111. The authorities mentioned that the most frequently investigated proceeds generating crime in Rwanda are, by far, illicit drug trafficking, followed by corruption (most tender offering and embezzlement of public funds), traffic of coltan from the area bordering Congo, and fraud. The LEAs conduct investigations into and prosecute these (and other) predicate crimes without tracing the funds.

112. As mentioned above, the ML offense has never been applied. However, in light of the number of asset generating crimes perpetrated in Rwanda, the risk of money laundering is not negligible. The money laundering offense in Rwanda covers most of the elements set forth in the Vienna and Palermo Conventions and should have been sufficient to enable the authorities to prosecute and sanction money laundering to a larger extent.

113. The fact that the authorities consider that a prior conviction for the predicate crime is necessary to prove that property is the proceeds of crime has the potential to raise a practical obstacle that needs to be overcome by the prosecution before any money laundering charges may be brought before the court.

114. Another difficulty arises from the fact that, in their investigations into predicate crimes, the authorities do not seem to focus sufficiently on the proceeds of crime: in a few instances, they identified cash or deposits on bank accounts, but did not seek to trace the other types of assets. Thus, these other assets (for example real estate, stocks, or cars) are not being identified on a regular basis, traced and confiscated, and ultimately remain in most of the cases in the hands of criminals.²¹

115. Overall, LEAs and the judiciary lack not only experience, but also expertise in handling money laundering cases, and the legal framework for money laundering, although broadly in line with the requirements of the standard, is not implemented effectively.

2.1.2 Recommendations and Comments

116. In order to comply fully with Recommendations 1 and 2, the authorities are recommended to do the following:

Recommendation 1:

- Ensure that the concealment or disguise of the movement of property knowing that such property is derived from an offense also constitutes money laundering;
- Clarify that prior conviction for the predicate offense is not a necessity to secure a money laundering conviction (i.e., when proving that property is the proceeds of crime).

²¹According to the authorities, in one case of illicit enrichment, the seizure and confiscation were conducted on cars, house, and plots.

Recommendation 2:

- Ensure that, in practice, intention can effectively be inferred from objective factual circumstances;
- Ensure that criminal sanctions do not preclude the possibility of parallel civil or administrative proceedings if such proceedings are available.

2.1.3 Compliance with Recommendations 1 and 2

	Rating	Summary of factors underlying rating²²
R.1	LC	<ul style="list-style-type: none"> • Lack of clarity as to whether prior conviction for the predicate offense is required to prove that property is the proceeds of crime, and authorities are of the view that it is a necessary requirement. • ML offense does not cover the concealment or disguise of the movement of property. • Lack of effectiveness of the money laundering offense.
R.2	PC	<ul style="list-style-type: none"> • Lack of clarity as to whether the intentional element of the offense can be inferred from objective factual circumstances, and authorities are of the view that it cannot. • Lack of sanctions and effective implementation of the money laundering offense.

2.2. Criminalization of Terrorist Financing (SR.II)

2.2.1 Description and Analysis

Legal Framework:

117. Chapter IV of the PC of 2012 sets out a number of terrorism offenses, including an autonomous offense of FT. Previously these terrorism offenses, including the FT offense, were criminalized in the Law n° 45/2008 of 09/09/2008 on counter terrorism (hereafter the CT law). The Preamble of the new PC mentions, however, a “review” of Articles 75 to 86 to 92, and 96 to 103 of the CT Law. As mentioned under Recommendation 1, the authorities maintain that this means that the articles listed have been repealed by the provisions of the PC but that all other provisions of the CT law are still valid.

118. Rwanda ratified the International Convention for the Suppression of the Financing of Terrorism (“ICSFT Convention”) on May 13, 2002. It is party to seven of the nine protocols and conventions listed in the Annex of the ICSFT Convention, namely:

- Convention for the Suppression of Unlawful Seizure of Aircraft (Ratification: May 17, 1971);

²²These factors are only required to be set out when the rating is less than Compliant.

- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Ratification: November 3, 1987);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations (Signature: October 15, 1974; Ratification: November 29, 1977);
- International Convention against the Taking of Hostages (Accession: May 13, 2002);
- Convention on the Physical Protection of Nuclear Material (Ratification: June 28, 2002);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Ratification: May 16, 2002); and
- International Convention for the Suppression of Terrorist Bombings (Accession: May 13, 2002).

Criminalization of Financing of Terrorism (c. II.1):

119. Article 653 of the PC defines the FT offense as “an act of financing a terrorism enterprise by an individual by providing, collecting, or managing funds, assets, or any goods or by providing advice to that effect, with the aim of having those assets or goods utilized or knowing that they are intended to be used, entirely or partially, in order to commit any of [the] terrorism acts.” Article 3 of the CT law provides that “an act considered as terrorism shall mean an act committed or a threat to commit an act in the interest of an individual, a group or a terrorist organization.” Article 2 of the same law defines “**terrorism**” as “to commit or threaten to commit acts aimed at leading State organs into changing their functioning through taking hostages of one or more persons, killing, injuring or threatening the population by use of any means that may kill or injure a person; to commit or threaten to commit an act referred to under paragraph 1 of this article on political, religious or any ideological grounds. “**Terrorist**” is defined under Article 7 of the CT Law as “a person, a group of persons or an organization that: 1° commits or attempts to commit acts mentioned in Article 2 of this Law; 2° participates or has participated in the commission, planning or aiding the commission of an act of terrorism whether before or after the act, knowingly and deliberately or interfered with investigations.” Finally, the terrorist organization under Article 9 of the CT law is defined as “membership of an organization: the fact for a person who is in an organization or a group of terrorists or starting to fulfill the requirements for adhering to that organization or group knowing its intentions.”

120. The terrorist financing offense extend to terrorist acts, but the provisions are not broad enough to include the financing of terrorist organizations and the individual terrorist, and not specific enough to establish whether they cover the direct and indirect provision and the collection of funds. According to the authorities, the provision includes both direct and indirect provision and collection; however, there are no precedents to support that view. Furthermore, the terrorist act is not clearly defined to include all the elements of Article 2.1.b. of the FT Convention, notably the additional acts²³ to the one defined in the

²³Other acts intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to

(continued)

treaties listed in the annex of the Convention. Finally, Rwanda is party to only seven out of the nine conventions and protocols listed in the Annex of the ICSFT Convention.

Definition of funds:

121. Article 653 of the PC refers to “funds,” “assets,” and “any goods,” but the law only defines “funds” in Article 15 of the CT law on supporting terrorist acts as (i) funds or any other property used to support terrorism including the property of an organization operating or prohibited from operating; (ii) outcomes of a terrorist act; and (iii) outcomes of an act carried out with an intention to commit terrorism in accordance with provisions of international conventions Rwanda ratified relating to suppression of terrorism.” The term “property” is explained in the AML/CFT Law in a way which is in line with the standard (see write-up for Recommendation 1 for more detail). Article 653 of the PC and the definition of funds in the CT law are sufficiently broad to cover legitimate and illegitimate sources.

Attempt and ancillary offenses:

122. The complicity in an FT offense is criminalized and sanctioned under Article 655 of the PC. The attempt to commit the terrorist financing offense is criminalized under Article 27 of the PC, and the direction of others to commit and the contribution to the commission of the terrorist financing offense are covered by Articles 97 to 99 of the PC.

Predicate Offense for Money Laundering (c. II.2):

123. Terrorism and FT are predicate offenses to money laundering.

Jurisdiction for Terrorist Financing Offense (c. II.3):

124. As mentioned under Criterion 1.5, Article 16 of the PC addresses the extraterritorial jurisdiction for several offenses, including terrorism. This provision does not, however, extend to the financing of terrorism. Therefore, TF offenses do not apply when the person alleged to have committed the offense(s) is in a different country from the one in which the terrorist(s) organization(s) is located or the terrorist act(s) occurred or will occur.

The Mental Element of the TF Offense (applying c. 2.2 in R.2):

125. Article 653 of the PC provides that “an offence of financing of terrorism means an act of financing a terrorism enterprise by an individual by providing, collecting or managing funds, assets or any goods or by providing advice to that effect, with the aim of having those assets or goods utilized or knowing that they are intended to be used, entirely or partially in order to commit any of [the] terrorism acts.”

126. The authorities did not clarify how knowledge would be established in this case.

intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

Liability of Legal Persons (applying c. 2.3 and c. 2.4 in R.2):

127. Legal persons may be held criminally liable for the FT offense in application of Article 656 of the Penal Code. Furthermore, and according to Articles 131, 132, and 138 of the CPC, liability of legal persons does not preclude possible parallel criminal, civil, or administrative proceedings.

Sanctions for FT (applying c. 2.5 in R.2):

128. Pursuant to Article 652.2 of the PC: “any person, who commits terrorism financing, shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine, in Rwandan francs, of two (2) to five (5) times the amount of his/her financial assistance.” In aggravated circumstances the sanctions available may be doubled (Article 657 of the PC). This is the case if the FT offense has been committed repeatedly, in the course of employment, or within the framework of an organized criminal conspiracy; or if the principal offense²⁴ is punishable by a term of imprisonment higher than the one for FT offense.

129. Article 521 of the PC adds that “any person who donates or receives financial support or any other assets, he/she believes or has reason to believe that they can be used for terrorist purpose, shall be liable to a term of imprisonment of ten (10) years to fifteen (15) years. Any person who incites another person to donate or receive financial support or any other assets, he/she believes or has reason to believe that they can be used for terrorist purpose shall be liable to a term of imprisonment of fifteen (15) years to twenty (20) years.” And Article 522 provides that “any person who knowingly makes an agreement or has an interest in it in order to acquire funds or any other assets, or enables a person to acquire money or support, having reason to believe that they can be used for terrorist purpose, shall be liable to a term of imprisonment of fifteen (15) years to twenty (20) years.”

130. Furthermore and according to Articles 131, 132, and 138 of the CPC, liability of legal persons does not preclude possible parallel criminal, civil, or administrative proceedings.

Statistics (R.32):

131. There were no FT convictions in Rwanda at the time of the on-site mission. Rwanda had investigated one case of conspiracy to commit an act of terrorism, resulting in the prosecution of one individual. The case was still pending before the high court at the time of the assessment. According to the authorities, it relates to activities in the border region with the Democratic Republic of Congo.

Implementation and Effectiveness:

132. The terrorist financing offense addresses several elements of the FATF standard and covers in particular the provision and collection of funds for the purpose of committing a terrorist act. The CT law also defines “funds” in a way that is fully in line with the standard. The Rwandan legal framework nevertheless falls short of the FATF standard, notably because it fails to criminalize the collection or provision of funds by a terrorist organization or individual terrorists. This notably means that the authorities can only bring TF charges if they can establish a link with a specific terrorist act, which is too

²⁴According to the authorities, principal offense in the case of FT is considered as any act, means, or helping in order to facilitate terrorism activities.

limitative. In addition, the CT law and the PC criminalize some but not all the terrorist acts offenses listed in the annex of the ICSFT.

133. The authorities mentioned that, in one case, they suspected some individuals of financing a terrorist group in the border area with DRC. However, it was not clear what measures were taken to investigate and sanction these activities.

134. The LEAs have a relatively low level of understanding of the FT techniques and trends and are not using investigative techniques to trace funds and other assets that may finance terrorism. Furthermore, while one investigation has been undertaken in the terrorism case mentioned above, no sanctions have been imposed in application of the terrorist financing offenses. Instead, the NPPA prosecuted the offender for conspiracy of committing a terrorist act.

135. In light of the above, the effectiveness of the FT offense has not been established.

2.2.2 Recommendations and Comments

136. The authorities are recommended to do the following:

- Criminalize the provision and collection of funds to individual terrorists and to terrorist organizations;
- Ratify and implement the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988; and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988;
- Ensure that, in practice, intention can be inferred from objective factual circumstances;
- Review the approach taken in applying the FT provisions to ensure that the legal framework in place is used more effectively.

2.2.3 Compliance with Special Recommendation II

	Rating	Summary of factors underlying rating
SR.II	NC	<ul style="list-style-type: none"> • The provision and collection of funds to individual terrorists and to terrorist organizations are not criminalized. • The direct and indirect collection and provision of funds is not covered under the FT offense. • Funding of terrorist acts is limited to acts defined in the treaties to which Rwanda is party, and therefore not all financing of terrorist acts are covered in the FT offense.

		<ul style="list-style-type: none"> • Lack of clarity as to whether the intentional element of the offense of FT can be inferred from objective factual circumstances. • Lack of effectiveness of the FT offense.
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2.3. Confiscation, freezing and seizing of proceeds of crime (R.3)

2.3.1 Description and Analysis

Legal Framework:

137. The relevant legal provisions are the following:

- Freezing: Article 55 of the AML/CFT Law.
- Seizing: Article 56 of the AML/CFT Law, and Articles 67 to 73 of the CPC.
- Confiscation: Articles 51–53 of the PC.

Confiscation of Property related to ML, FT or other predicate offenses including property of corresponding value (c. 3.1): Confiscation of Property Derived from Proceeds of Crime (c. 3.1.1 applying c. 3.1):

138. Article 2.2 of the AML/CFT Law defines confiscation as the “permanent deprivation of property by a definitive decision of a competent tribunal which transfers to the State the ownership of this property and any related title to property.”

139. Article 51 of the PC (which repealed Articles 57 to 59 of the AML/CFT Law) enables the confiscation of proceeds from instrumentalities used in or intended to be used in the commission of an ML, FT, or predicate offense. It also allows for the confiscation of property of equivalent value. Proceeds are defined in the AML/CFT as including property that is derived both directly and indirectly from the commission of an offense. According to the authorities, this is not limited to assets held by the criminal defendant but extends to those held by third parties as well.

140. The CT law calls for the confiscation of the property of an accused of an offense of aiding terrorist acts (Article 35 of the CT law²⁵). It does not extend, however, as it is required by the standard, to funds and property, proceeds of the terrorist financing offense, as well as funds and property that are derived from the proceeds, if they are used or intended to be used to commit the terrorist financing offense.

²⁵Article 35 of the CT law: The court that tried an accused on an offense of aiding terrorist acts shall issue a deed of confiscation of the property of the accused. The English translation is inaccurate in the sense that it erroneously refers to “accused” whereas the original Kinyarwanda version as well as its French translation refer to the convicted person and therefore raise no potential issue of due process.

141. Article 51 of the PC allows for the confiscation of instrumentalities used or intended to be used in the commission of the offense and for property of corresponding value.”²⁶ This provision of the PC complements the AML/CFT Law and the CT law in that it enables the authorities to confiscate the instrumentalities used in, or intended for use in the commission of the offenses in general. In addition, it provides for the possibility to confiscate funds and property of equivalent value when the assets to be confiscated cannot be produced.

Provisional Measures to Prevent Dealing in Property subject to Confiscation (c. 3.2):

142. “Freezing” is defined in Article 2.5 of the AML/CFT Law as a “measure which consists of the temporary delay of the execution of a transaction, the prohibition or restriction of the transfer, the conversion, the transformation, the movement of property on the basis of a decision or a directive issued by a competent authority.”

143. Pursuant to Article 25 of the AML/CFT Law, the FIU may pronounce, due to the gravity of a transaction or the urgency to confront it, the freezing of the property or the transactions for a period that cannot exceed 48 hours and shall immediately communicate its decision to the reporting entity. During this time, the FIU should refer the case to the NPPA if the reasons on the basis of a presumption of money laundering are conclusive and, or in the case to the contrary, lift the freezing order and immediately inform the reporting entity.

144. According to Article 56 of the same law, the NPPA or a competent court may seize the funds and the property that are related to offenses under this law. If the proceeds of the crime cannot be raised from the properties of the suspects, the NPPA or the competent court may seize other assets that are in the property of the suspects up to the amount of the alleged proceeds of the offenses.

145. In addition, property can be seized by LEAs in accordance with Article 30 of the CPC (see the write-up under Criterion 28.1 below). This article could be used to seize proceeds of predicate offenses.

Ex Parte Application for Provisional Measures (c. 3.3):

146. The laws do not establish how provisional measures should be taken and practice is scarce. According to the authorities, the FIU issued a freezing order in one instance, and this was done ex-parte and without prior notice to avoid the risk of assets being removed before the implementation of the order. But once the decision had been issued, the FIU, as it is required by the law, referred the case to the NPPA, which ordered the seizure of the assets in order to continue the investigation.

²⁶Article 51 of the PC states, “when a felony or a misdemeanour is committed, the special confiscation of items constituting the object of the offence, items which were used or intended to be used to commit the offence or were the proceeds, shall be an additional [sanction] to the main penalty when such items belong to the convict. If the items referred to under Paragraph One of this Article do not belong to the convict, and if the offence committed is a petty offence, the confiscation shall be ordered only in cases provided for by law. If the confiscation of such items is impossible, the confiscation shall be extended to other items of the property of the convict proportionately to the value of the items to be confiscated.”

Identification and Tracing of Property subject to Confiscation (c. 3.4):

147. The FIU uses its investigative powers to trace and identify the proceeds of crimes. Discussions with the representatives of the FIU and LEAs suggested, however, that in the rare instances where they investigated money laundering, they pursued only funds (either in cash or deposited on bank accounts) and none of the other types of assets covered in the legal definition of “funds.”

148. Information and documents covered by legal privilege may, however, not be accessed by investigative authorities, which could constitute a severe obstacle in tracing proceeds of crime. Further information on this point is provided under Recommendation 28 below.

Protection of Bona Fide Third Parties (c. 3.5):

149. Neither the PC nor the AML/CFT Law enables bona fide third parties to ensure that their rights are not prejudiced during the pre-confiscation stage (namely when provisional measures are taken) and when confiscation is ordered. According to the authorities, bona fide third parties can nevertheless seize the civil judge (“*action recoursaire*”).

Power to Void Actions (c. 3.6):

150. Under Article 60 of the AML/CFT Law, “any act carried out in return of payment or at no charge *inter vivos* or *causa mortes* whose purpose shall be to withdraw assets from confiscation measures under this Law shall be null and void. In case of the annulment of a contract in return of payment, the price is delivered to the purchaser only if it was actually paid.” There is no equivalent provision with respect to predicate offenses including terrorist financing.

Statistics (R.32):

151. As mentioned above, the FIU ordered the freeze of an account in the context of a money laundering investigation in one instance only. No other provisional measures were taken and no funds have been confiscated on the basis of the AML/CFT Law. Similarly, the authorities have not made use of provisional and confiscation measures of funds and assets suspected of being linked to terrorist financing. No information was provided on the number of provisional measures and confiscation orders that have been taken or issued on the basis of the predicate offenses.

Additional Elements (Rec.3)—Provision for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and, c) Confiscation of Property which Reverses Burden of Proof (c. 3.7):

152. There are no provisions for these additional elements in Rwanda due to its legal system.

Implementation and Effectiveness:

153. In the case of ML and FT offenses, the framework adequately provides for provisional measures and confiscation of all property subject to confiscation under the standard. Although it suffers from some minor deficiencies, overall, the legal framework for confiscation is sound. In the absence of convictions for ML or FT, however, the confiscation framework provided by the AML/CFT Law and the PC has never been used.

154. With the limited exceptions mentioned above, LEAs and the FIU do not make an effective use of their powers to identify and trace property that is, or may become, subject to confiscation. Freezing measures have been taken once by the FIU, but the authorities have very limited experience in seizure in the course of ML and FT investigations. Bona fide third parties may challenge a confiscation order, but have no possibility to ensure that their rights are not prejudiced by provisional measures.

155. LEAs are not effectively using the provisional measures against the proceeds of predicate offences and the instrumentalities used in and intended for the use on the commission of any ML, FT, or other predicate offenses, and property of corresponding value. They are not proactive in following the money in predicate crimes, ML, and FT cases, due to lack of capacity and training. No funds or assets have been confiscated in application of the AML/CFT Law and the PC.

2.3.2 Recommendations and Comments

156. In order to comply fully with Recommendation 3, the authorities are recommended to do the following:

- Ensure that bona fide third parties can defend their rights at all stages of the confiscation process;
- Effectively identify and trace property that is, or may become, subject to confiscation or is suspected of being the proceeds of crime; and
- Make effective use of the provisional and confiscation measures to fight ML, FT, and predicate crimes.

2.3.3 Compliance with Recommendation 3

	Rating	Summary of factors underlying rating
R.3	LC	<ul style="list-style-type: none"> • Rights of bona fide third parties not ensured in the criminal process. • Lack of effectiveness: no funds or assets have been confiscated in application of the AML/CFT Law and the PC; limited use of the provisional measures and powers to identify and trace the proceeds of crimes.

2.4. Freezing of funds used for terrorist financing (SR.III)

2.4.1 Description and Analysis

Legal Framework:

157. The AML/CFT Law sets out a basic mechanism to freeze terrorist assets and calls for implementing measures which, at the time of the assessment, had not been taken.

Cr. III.1–13: Mechanism for freezing of terrorist funds and assets:

158. Article 23 of the AML/CFT Law gives the FIU the mandate to establish a list of “natural and legal persons and organizations who shall be subject to restrictive measures as terrorists or linked to terrorist organizations or financing terrorism and terrorist organizations” in accordance with “the United Nations Resolutions for the prevention and suppression of the financing of terrorist acts.” According to the authorities, this refers to UNSCR 1373 (and its successor resolutions), and not to UNSCR 1267. The FIU must “set the list of persons, entities or organizations whose funds are frozen by financial organisms and other persons subject to this law and submit it to the Prosecutor General” (Article 23.2). It must also ensure that the names figuring on the list are sufficiently detailed in order to allow an effective identification (Article 23.3).

159. At the time of the assessment, the FIU had not developed such a list and had not ordered the freezing of funds in application of the UNSCRs. There are no obligations on reporting entities to freeze the funds and assets of persons designated by the UNSC in the absence of an FIU order.

160. There is no mechanism to address freezing actions initiated by other countries, or by Rwanda itself. Similarly, there are no measures in place to ensure communication of freezing orders to all reporting entities and competent authorities and no guidance on freezing. There is no mechanism to consider de-listing and unfreezing requests, or for authorizing access to funds and other assets pursuant to UNSCR 1454 (2002).

Implementation and effectiveness:

161. The RNP receives the designations made in application of the UNSCRs through Interpol and sends them to the stations in charge of border control. Financial institutions and designated non-financial persons met by the mission have reported not having knowledge of the UNSCR lists with the names of persons whose funds should be frozen. The Central Bank sent a few letters to banks in 2011, in response to a diplomatic note from the United States, with instructions to immediately freeze the accounts of the persons listed in the note.

2.4.2 Recommendations and Comments

162. In conclusion, Rwanda did not implement the necessary measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. The authorities are therefore recommended to do the following:

- Put in place effective laws and procedures to freeze terrorist funds or other assets or persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267 of 1999 and successor resolutions. Such freezing should take place without delay and without prior notice to the designated persons involved;
- Put in place effective laws and procedures to freeze terrorist funds or other assets of persons designated in the context on UNSCR 1373 of 2001. Such freezing should take place without delay and without prior notice to the designated persons involved;
- Develop effective laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions;

- Extend the freezing measures to all “funds and other property,” which would make it possible, pursuant to the aforementioned resolutions, to cover all financial assets and property of any kind, whether corporeal or incorporeal, movable or immovable, as well as legal documents or instruments of any kind evidencing title to or interest in such property;
- Provide a clear and rapid mechanism for distributing the UNSCR lists nationally to the financial institutions and other persons or entities that may be holding targeted funds or other assets;
- Provide clear guidance to financial institutions and other persons or entities that may be holding targeted funds or assets concerning their obligations in taking action under freezing mechanisms;
- Introduce effective and publicly known procedures for timely review of requests to delist designated persons and to unfreeze the funds or other property of persons or entities removed from the lists;
- Introduce effective and publicly known procedures for unfreezing as promptly as possible the funds or other property of persons or entities inadvertently affected by a freezing mechanism, upon verification that the person or entity is not a designated person;
- Introduce appropriate procedures for authorizing access to funds or other property frozen pursuant to Resolution S/RES/1267(1999) and that have been determined to be necessary for basic expenses, the payment of certain types of fees, expenses, and service charges, as well as extraordinary expenses;
- Introduce appropriate procedures allowing a person or entity whose funds or other property were frozen to challenge the measures, including with ultimate recourse to a court;
- Introduce a provision that would ensure protection for the rights of third parties acting in good faith; and
- Develop appropriate measures to effectively monitor the compliance with relevant legislation, rules, or regulations governing the obligations under SRIII and to impose civil, administrative, and criminal sanctions to failure to comply with such legislation, rules, or regulations.

2.4.3 Compliance with Special Recommendation III

	Rating	Summary of factors underlying rating
SR.III	NC	<ul style="list-style-type: none"> • Absence of measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. • Absence of measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use, in the financing of terrorism, terrorist acts, or terrorist organizations.

Authorities

2.5. The Financial Intelligence Unit and its Functions (R.26)

2.5.1 Description and Analysis

Legal Framework:

163. Article 20 of the AML/CFT Law provides the legal basis for the establishment of the FIU. Further details are set out in the following texts:

- The Presidential Decree N.27/01 of 30/05/2011 determining the organization, functioning, and mission of the Financial Investigation Unit (hereinafter the FIU Presidential Decree) further defines the FIU's mission and organization;
- The FIU Presidential Order No.119/01 of 09/12/2011 amending the decree N.27/01 of 30/05/2011; and
- The Prime Minister's Order No.180/03 of 09/12/2011 appointing the members of the Advisory Board of the FIU.

Establishment of FIU as National Centre (c. 26.1):

164. Article 20 of the AML/CFT Law establishes the FIU as a law enforcement agency part of the National Police. A Presidential Order determining the organization, functioning, mission, and parent institution of the Unit was issued on May 30, 2011.

165. Article 5 of this Order provides that “[t]he Unit should have the main responsibilities of collecting, analyzing, disseminating the information to whom it may concern and investigating in view of combating money laundering and financing of terrorism in accordance with the [AML/CFT Law].” The FIU is the only national center in Rwanda with the mandate to perform these activities. At the time of the assessment, it had received some STRs from banks, two reports from open sources, and 112 declaration forms from the customs.

166. In addition to the functions traditionally assigned to an FIU, the Rwandan FIU has the ability to oppose the execution of operations and conduct criminal investigations into money laundering and terrorist financing cases. According to the Presidential Order, the FIU also has the responsibilities to do the following:

- Propose to the competent authorities modifications and amendments to laws and regulations related to the prevention and suppression of money laundering and financing of terrorism;
- Establish the list of indicators serving to recognize the suspicious transactions;
- Participate in the professional training of the reporting entities personnel;
- Propose measures aimed at reinforcing the fight against money laundering and financing of terrorism; and

- Coordinate activities of prevention carried out by all institutions in charge of the implementation of the AML/CFT Law.

167. According to the Presidential Decree, the FIU operates under the supervision of the ministry in charge of internal security. Its main bodies are the Advisory Board and the management.

168. The Advisory Board is chaired by the Governor of the BNR. Its members are appointed for a mandate of three years, which may be renewed, by a Prime Minister's Order upon request by the minister in charge of internal security. The Order also appoints the Chairperson and Vice Chairperson of the Board and determines its functioning. The Director of the FIU should be a member and Secretary of the Advisory Board. These members are seconded and continue to report to their superiors in their respective institutions. Its main responsibility is to advise on the following issues: (i) proposing measures aimed at enabling the FIU to fulfill its mission; (ii) updating the legislation relating to the fight against money laundering and financing of terrorism; (iii) establishing internal rules and regulations of the Unit; (iv) proposing agreements with foreign FIUs; (v) monitoring and evaluating achievements in the FIU in order to assess the adequacy of existing measures or to modify them wherever necessary; and (vi) giving a quarterly (or at any time deemed necessary) report to the minister in charge of internal security. The current members of the Advisory Board are the Governor of the BNR (Chairperson), the Prosecutor General (Deputy Chairperson), the head of the investigation department in the Rwanda Defense Forces, the Commissioner of Intelligence in RNP, the Commissioner General of Rwanda Revenue Authority, the Commissioner of Criminal Investigation in RNP, and the Chief of External Security in National Intelligence and Security Service.

169. The management of the FIU should be conducted by a director appointed by the appointing authority, namely the Inspector General of the RNP. The director is responsible of (i) ensuring the daily management of the Unit; (ii) ensuring that all rules and regulations relating to the discipline and the carrying out of activities and services are observed by the staff of the Unit; (iii) fulfilling the Unit's responsibilities; (iv) preparing and submitting to the Inspector General of Police the annual budget proposal of the Unit; (v) ensuring the relationship between the Unit and other competent authorities; (vi) submitting to the Inspector General of Police the annual report on the management of the Unit; and (vii) coordinating control activities and submission of a report to the Inspector General of Police.

170. The FIU became operational in December 2011 after the Prime Minister appointed the members of the Advisory Board by a decision dated December 9, 2011. Between then and the time of the assessment, the FIU had received six STRs from banks and disseminated one report to the NPPA. The other cases were deemed unsubstantiated and filed.

Guidelines to Financial Institutions on Reporting STR (c. 26.2):

171. Pursuant to article 12 of the FIU Presidential Order, the FIU must issue directives for the reporting entities concerning suspicious transaction reporting, as well as concerning other obligations, such as the identification of their customers, record-keeping, and other obligations that the Decree or the AML/CFT Law impose on reporting entities. At the time of the assessment, some directives that include reporting forms had been drafted by the FIU but had not been approved by its Advisory Board or published in the official Gazette.

Access to Information on Timely Basis by FIU (c. 26.3):

172. As part of the RNP, the FIU has the power to conduct investigations (Article 5 of the Presidential Decree) and can therefore collect administrative, financial, and law enforcement information on this basis. In particular, it has access to several databases, including the Rwanda Revenue Authority database, the Company Registration database, and the Motor Vehicle Registration database. Access to others that are not directly accessible by the police (for example information held by reporting entities) could be granted through an order from the prosecutor or through the use of investigative powers of the NPPA. The FIU therefore appears to have adequate access to information needed to properly undertake its functions.

Additional Information from Reporting Parties (c. 26.4):

173. Pursuant to Article 9 of the FIU Presidential Order, the FIU can request any reporting entity, in addition to filing STRs, to transmit, without charge, the information, documents, and registries necessary to exercise its functions. At the time of the assessment, the FIU had not made such a request when the information was relevant for the STR received.

Dissemination of Information (c. 26.5):

174. According to Article 5 of the Presidential Decree, the FIU is responsible for disseminating information “to whom it may concern.” Pursuant to Article 9 of the same decree, “the Unit should immediately investigate and transmit the report to the NPPA for prosecution and appropriate action whenever there is reasonable suspicion about the commission of the crime of money laundering and financing of terrorism. This report should be accompanied by all useful pieces of information, other than those contained in the STR.”

175. At the time of the assessment, the FIU had disseminated one case to the NPPA. This might be due to the fact that the threshold for dissemination (i.e., the presence of a suspicion about the commission of the crime) is too high when compared to the international standard.

Operational Independence (c. 26.6):

176. Article 25 of the Presidential Order No. 27/01 of 30/05/2011 states that the executive officers or employees of the FIU or any other person appointed to one of its posts should not, parallel to their responsibilities within the FIU, exercise other functions in a reporting entity or exercise an elected function or any other activity that could jeopardize the independence of their functions.

177. It is difficult to assess the independence and operational autonomy of the FIU, since it has only “investigated” six reported cases and disseminated one report to the NPPA. However, certain factors indicate that its independence and autonomy could be limited.

178. The Inspector General of the Police is responsible for appointing its director, who is responsible for managing the FIU’s operational resources. There are no clear rules for the designation and dismissal of the director and staff of the FIU. The officers at the RNP are obliged according to the Police Law to follow the instructions of the Inspector General. They can be moved to other departments of the RNP at any time. These elements jeopardize the confidentiality of information and ultimately the independence of the FIU.

179. The budget is not set regularly and was provided by the RNP since the creation of the FIU. The BNR provides the offices and office equipment.

180. Considering the composition of the Advisory Board of the FIU, it would seem difficult to envision real operational autonomy for the FIU, knowing the fact that the members are full-time officials of other agencies and that they can use their investigative powers and share information with their respective agencies. Furthermore, these members follow the instructions of their superiors and are obliged to share information inside their institutions when necessary. Because FIU staff members are also, and primarily, RNP staff, working at the FIU is seen as a professional development opportunity for many officials and is not necessarily associated with the operational needs of the FIU.

Protection of Information Held by FIU (c. 26.7):

181. Article 24 of the AML/CFT Law states that “the executive officers employers or agents of the [FIU] or any other person appointed to one of these posts must preserve the confidential character of the information obtained in the exercise of their official duties, as well as when they have ceased to exercise these duties. This information cannot be used for purposes other than the ones provided for by this Law and cannot be revealed unless there is a decision of the competent Court.”

182. The FIU is located in two separate spaces, namely the Central Bank office building and the RNP. Entry to and exit from these buildings are controlled by perimeter security guards who check the visitors' identification and reasons for entry. Access to the FIU's offices at the Central Bank can be gained from internal and external doorways once access to the general premises has been granted. While security for entrance into the Central Bank grounds is sufficient, there could be better arrangements in place for the FIU itself not to allow access to the Bank's staff to the FIU premises.

183. The storage, handling, and security of information in the FIU are rudimentary. STRs and additional information are filed in hard and soft copies on the personal computers of staff. There is no secure system or server for reporting and storing of the information. The STRs are sent by normal post, email without encryption, or reported verbally by phone to the director of the FIU.

Publication of Annual Reports (c. 26.8):

184. Among other responsibilities, the FIU's Advisory Board gives a quarterly (or at any time deemed necessary) report to the Minister in charge of internal security. At the time of the assessment, no report had been prepared. The Board met once after the designation of its members without taking major decisions.

185. In addition, the Director of the FIU submits to the Inspector General of Police reports on the management of the Unit. However, no report has been published to date. A draft report for the first year of operation was prepared and submitted to the assessment team, and was awaiting publication.

Membership in the Egmont Group and consideration of its principles (c. 26.9-c.26.10):

186. The FIU has contacted Egmont Group to begin the process of becoming a member. At the time of the assessment, it has not exchanged information with foreign FIUs. Thus, the question of considering the principles of the Egmont Group has not arisen in practice. The authorities indicated that membership in

the Egmont Group will only be considered after Rwanda becomes a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

Adequacy of Resources—FIU (R. 30):

187. Human Resources: So far, the FIU has 12 investigators (all RNP staff) and 2 support staff. The investigators conduct file investigations when reports are received. There are no statutory provisions in the AML/CFT Law, or other statutes, which relate directly to recruitment, retention, and integrity standards for FIU personnel. However, the Police Law applies to FIU staff to the same extent as in other RNP divisions. Recruitment in the RNP, and hence in the FIU, includes background and academic record checks. Once recruited, individual staff members are bound by the professional standards set out in the Police Law relating to honesty and integrity, loyalty and good faith, and confidentiality.

188. Financial Resources: The budget is not set regularly and is temporarily provided by the RNP. The FIU has two premises, one provided by the Police and the other by the Central Bank. The staff is provided by the Police.

189. Technical Resources: The FIU lacks a number of tools necessary for it to effectively meet its obligations, including the following: (i) hardware and analytical software appropriate to the functions of an FIU; (ii) an electronic information and filing system; and (iii) a secure system of information storage to manage that system.

190. Training: Staff of the FIU received some training in 2011; however, few are relevant to AML/CFT. Some of the courses that were completed include the following:

- Two workshops organized by BNR on payment system—6 staff;
- RNP and BTC conducted one-month FIU courses on forensic accounting, money laundering, and financing terrorism—6 staff;
- Three-month advanced course in criminal investigation and crime scene management—6 staff;
- Criminal investigation short courses on forensic awareness—12 staff;
- Footwear recovery techniques course for one week—2 staff;
- Egmont Group meeting—Director and staff member; and
- Three-day pre-assessment workshop conducted by the IMF—Director and a staff member.

Statistics (R.32):

Statistical Table 4. Number of reports received by the FIU

STR received from banks	6
Declarations received from Kigali airport	116
Reports received from open sources	2
Cases disseminated to the NPPA	1

Implementation and Effectiveness:

191. The establishment of the FIU constitutes an important step forward in the implementation of the AML/CFT Law. Nevertheless, so far, implementation remains weak: The FIU became operational in 2011 and received limited number of STRs.²⁷ It disseminated one report to the NPPA, and the other reports were filed. It does not have appropriate power to access financial, administrative information.

192. The FIU sent some templates for the STR forms to banks operating in Rwanda, but not to nonbank FIs and DNFBPs. Additional guidance on the manner of reporting should also be sent to reporting entities.

193. The FIU employees from the Police are conducting police investigations instead of intelligence analysis. According to Recommendation 26, the FIU should be responsible for the analysis and dissemination of the financial information to LEAs for investigation or action when there are grounds to suspect ML or FT. The Rwandan FIU should therefore limit its work to the analysis phase. Conducting additional investigations in lieu of other police units could jeopardize the confidentiality of the information and lead to tipping off the reported person(s). Such investigations should only be conducted by LEAs once the FIU sends them the information.

194. The FIU should take a more proactive approach to the analysis of data by aiming to generate more intelligence and increase the number of reports disseminated to the NPPA. No objective criteria have yet been developed for the dissemination; this decision is taken based on judgment.

195. The effective conduct of core FIU functions under the standards is undermined by the variety of other functions and responsibilities, such as investigation powers and issuing of directives beyond the one determining the manner of reporting. These functions, while critical, have the effect of diverting limited staff resources away from the core FIU functions, namely the receipt, analysis, and dissemination of STRs. There are other elements that considerably limit the effectiveness Rwanda's FIU: the lack of analytical training for FIU staff and the reliance on investigative techniques; the paper-based system of information storage, which severely restricts cross-checking analysis between STRs and other information; and the fact that the FIU's staff may be posted in and out of the FIU, depending on the RNP's staffing needs, which affects the autonomy of the FIU and does not allow the retention of expertise of staff.

196. Certain factors also indicate that the independence and autonomy of the FIU could be limited. There are no clear rules for the designation and dismissal of the director and staff of the FIU—while the Presidential Order No. 27/2011 states that the director of the FIU is appointed and may be dismissed by the appointing authority in the RNP, it does not establish the qualifications required for the position and the conditions for dismissal of the director and staff of the FIU. The FIU's budget for the year had been provided by the RNP whose budget is set annually, but there were no plans for a sustainable budget for the FIU. The composition and responsibilities of the Advisory Board of the FIU²⁸ could jeopardize the confidentiality of the information. Additionally, there is no retention policy of its staff.

²⁷The authorities interpret the “collection” power of the FIU broadly to allow it to receive information from any source outside the reporting entities.

²⁸The authorities mentioned that, since the assessment, the budget and office facilities continued to be provided to the FIU by the RNP and the BNR, respectively.

197. At the time of the assessment, the FIU had been operational for less than a year and had therefore not published an annual report, typologies, and trends or information regarding its activity.

198. Finally, Rwanda has not considered becoming an Egmont Group member by submitting an application and has not exchanged information with foreign FIUs.

2.5.2 Recommendations and Comments

199. The authorities are recommended to do the following:

- Provide reporting entities with guidance on the manner of reporting, including comprehensive reporting forms for all reporting entities other than banks (which have already received a reporting form);
- Ensure that the FIU asks reporting entities for additional information when the information is correlated to received information;
- Ensure that the FIU strengthen the quality of its analysis of STRs and other information, in particular by undertaking more in-depth analysis that could lead to improving the quality and quantity of disseminated reports. This could be achieved *inter alia* by (i) conducting analysis of information instead of investigation; (ii) strengthening the technical tools available to the analysts; and (iii) increasing the number of analysts with financial background and raising their awareness;
- Ensure that the information held by the FIU is securely protected;
- Ensure the independence of the FIU by, among other things, (i) putting in place proper safeguards for the sharing of information with the Advisory Board; (ii) securing adequate financial, human, and technical resources to conduct its core functions; and (iii) securing the information held at its premises;
- Publish periodic annual reports with comprehensive statistics, typologies, and trends of money laundering and terrorist financing as well as information regarding its activities;
- Consider applying for Egmont Group membership; and
- Ensure that the FIU provides additional specialized and practical in-depth training to its employees. This training should cover, for example, predicate offenses to money laundering, analysis techniques, and familiarization with money laundering and terrorist financing typologies and risks and vulnerabilities.

2.5.3 Compliance with Recommendation 26

	Rating	Summary of factors relevant to s.2.5 underlying overall rating
R.26	PC	<ul style="list-style-type: none"> • Lack of analysis of STRs and other information mostly due to performing investigations and lack of analytical tools and weak quality/quantity of

	<p>reporting.</p> <ul style="list-style-type: none"> • Lack of guidance on manner of reporting, including reporting forms for nonbank reporting entities. • No additional requests of information addressed to reporting entities. • Very low level of dissemination due to low level of STRs received. • No publication of annual reports containing information about its activities, statistics, and typologies. • Lack of sufficient operational independence and autonomy mainly due to the powers and responsibilities of the Advisory Board. • Information not securely protected. • Effectiveness was not established.
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2.6. Law enforcement, prosecution and other competent authorities—the framework for the investigation and prosecution of offenses, and for confiscation and freezing (R.27 and 28)

2.6.1 Description and Analysis

Legal Framework:

200. The texts of law governing law enforcement action in Rwanda are Articles 160 and 161 of the Constitutions, the Criminal Procedure Code, the AML/CFT Law, the Anti-Corruption Law, and the Police Act of 2011.

Designation of Authorities ML/FT Investigations (c. 27.1):

National Public Prosecutor Authority (NPPA)—Economic and Financial Department:

201. The NPPA is responsible for the prosecution of criminal offenses committed in Rwanda. The prosecution service has a presence in the city of Kigali and at the intermediary and primary levels. The prosecutor general is assisted by his deputy, 16 public prosecutors with national competence, and 5 inspectors. There are 72 public prosecutors at the intermediate levels and 60 prosecutors at primary levels. A team of eight prosecutors and six inspectors is set up at the NPPA office in Kigali to investigate and prosecute economic crimes. The team is assisted by one prosecutor at each intermediate level of the prosecutions. Only a single case of money laundering had been disseminated to the NPPA at the time of the assessment, and was under review by the NPPA's Economic and Financial Department.

Rwanda National Police (RNP)—Economic and Financial Unit:

202. The RNP is responsible for the maintenance of law and order and public security. It has the monopoly of the preliminary investigations, which are conducted under the supervision of the NPPA. The RNP is organized at a national level and is headed by an inspector general. The total force numbers between 8,000 and 10,000 police officers.

203. The Economic and Financial Crime Unit of the RNP has four sections with competencies in investigating (i) corruption and embezzlement, (ii) bank/financial fraud and bankruptcy, (iii) forged or false documents, and (iv) cyber crimes. None of the sections are designated to conduct ML investigations.

Financial Investigation Unit (FIU):

204. As mentioned under Recommendation 26, the Rwandan FIU is a unit of the RNP. Pursuant to Article 5 of the Presidential Order No. 27/01, the FIU is responsible for the collection, analysis, dissemination, and investigation of information related to potential money laundering or terrorist financing activities.

205. Money laundering: the FIU is the only authority that is explicitly designated to investigate money laundering. Predicate offenses are investigated by the following authorities as described below:

- Economic and Financial Section of the RNP;²⁹
- Investigation Service of the Revenue Service,³⁰ and
- Ombudsman.³¹

206. In practice, the FIU conducts evidence-gathering through investigations.

207. As mentioned above, the FIU is also the designated authority to investigate terrorist financing. However, the Intelligence Department at the RNP, which is responsible for the investigation of terrorism cases, also investigates terrorist financing under the CT law. All cases are investigated under the supervision of and eventually prosecuted by the Economic and Financial Department of the NPPA.

RNP—Anti-Terrorist Unit:

208. The Anti-Terrorist Unit was created in 2004 and comprises 20 officers. Their mission is to detect, investigate, and prevent terrorism activities, both from domestic origin agitating against the ruling government and from foreign or international organizations. This also includes the financing of these activities. They focus especially on the border areas and the airport, and actively cooperate with other relevant law enforcement authorities, such as the Economic and Financial Unit and the customs. The unit also cooperates with the Ministry of Local Government and the Rwanda Governance Board in monitoring the non-profit organizations. They have conducted few investigations of terrorism cases.

The Ombudsman:

209. The Office of the Ombudsman was established by the Government of Rwanda in order to promote good governance and prevent and fight corruption and injustice. The Constitution of the Republic of Rwanda in its Article 182 as amended mandates the Office of the Ombudsman the mission of

²⁹Corruption and embezzlement; bank, financial fraud and bankruptcy; forged or false documents, and cyber crimes

³⁰Tax evasion and fraud

³¹Corruption

“preventing and fighting injustice, corruption and other related crimes and receiving true declaration of assets of the persons determined by law.” The Ombudsman may initiate a criminal investigation by referring indications of corruption including embezzlement to the police.³² Most of the corruption cases that generated substantial proceeds investigated by the Ombudsman were related to the offering of tenders.

210. The Ombudsman plays a specific role in the fight against corruption. It liaises between civilians and the Rwandan government and justice system. It does not target criminal proceeds as such, but has the powers to file a legal action for the recovery of such proceeds.

Revenue Service - Investigation Department:

211. The Investigation Department at the Revenue Service is competent for the conduct of investigations into tax evasion and tax fraud cases. It has judicial powers to investigate these cases in cooperation with the customs agents present at the border entry and exit points. The department has not investigated ML cases in relation to these predicate crimes.

Ability to Postpone/Waive Arrest of Suspects or Seizure of Property (c. 27.2):

212. There are no legislative measures that allow LEAs investigating ML cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. According to the LEAs met during the mission, such practice is nevertheless used frequently during their investigations of ML and predicate crimes. Seizure and arrest orders can be obtained from the courts on the basis of Articles 30 and 33 of the CPC, and their execution deferred based on the appreciation of the judicial police or the prosecutor’s office.

Additional Elements—Ability to Use Special Investigative Techniques (c. 27.3), and Use of Special Investigative Techniques for ML/FT Techniques (c. 27.4):

213. Pursuant to Article 26 of the AML/CFT Law, the competent authorities may require, for a given period of time and in order to obtain evidence related to the ML/FT offenses, to (i) monitor bank accounts and other related matters; (ii) gain access to systems, networks, and computer servers; and (iii) monitor or listen through sound control unit of telephone, telefax, equipment of telecommunications or electronic transmissions; audio-visual recording of actions, behaviors or conversations; and communication of notarized private banking, financial, or commercial information documents. These acts can only be granted if there are strong grounds to suspect that the accounts, telephone lines, systems, or data-processing networks or documents are used or likely to be used in a money laundering or terrorist financing process.

214. These techniques are not yet used in practice due to lack of technical and human resources and training.

³²According to law No. 76/2013 of 11/09/2013 determining the mission, powers, organization, and functioning of the Office of Ombudsman, the office has been provided the extended power of investigating corruption cases and related offenses (Article 13).

Additional Element—Specialized Investigation Groups and Conducting Multi-National Cooperative Investigations (c. 27.5):

215. To date, the authorities have not considered putting in place specialized investigation groups for conducting multi-national cooperative financial investigations.

216. On the national level, the cooperation between the different sections and departments of the RNP and other competent authorities takes place at the inspector general's level. The Rwanda Cooperative Agency (RCA) created by ministerial order No. 137/08II of 05/05/2011 provides the power to the agency to act as judicial police agent in financial investigations.

Additional Elements—Review of ML and FT Trends by Law Enforcement Authorities (c. 27.6):

217. Money laundering and terrorist financing methods, techniques, and trends are not reviewed by law enforcement authorities on a regular, interagency basis. No analysis or studies have been conducted or disseminated.

Ability to Compel Production of and Searches for Documents and Information (c. 28.1):

218. There is no specific provision that grants LEAs the power to compel the production of necessary documents and information. The CPC does, however, provide a list of powers that LEAs may use in the course of an investigation to search and seize the documentation and other things under the possession of the suspect or any other person (Article 29³³ and Article 30³⁴ of the CPC, and Articles 28 to 32 of the Police Act of 28/20/2011). LEAs met during the assessment confirmed that these powers are used during the investigations to obtain financial records, mostly from banks. Such powers were never used to obtain financial information detained by lawyers and other professions. Pursuant to the law organizing the lawyers' professions (Articles 64 to 70) and the Bar Association's internal regulation (Article 101 to 103), lawyers are bound by strict confidentiality requirements, even when they prepare or carry out transactions for their clients concerning the financial activities listed under Recommendation 12. The lawyers' professional secrecy obligation is absolute: LEAs cannot obtain information detained by lawyers, not even on the basis of a court order.

219. All documents and information other than those held by lawyers can be obtained by using the powers of search or seizure after obtaining a warrant from a public prosecutor.

³³If a judicial police officer thinks that the nature of the evidence required is likely to be made up of papers and other documents and other things under the possession of the suspect or any other person, he or she can proceed to search where they are kept after obtaining a warrant from a public prosecutor. If the prosecutor grants a search warrant to an officer of a special profession, the search shall be conducted in the presence of the person under search or under the presence of his or her representative. If such a person is a member of a professional association, the search shall be conducted in the presence of a representative of the association.

³⁴A judicial police officer can seize property anywhere if it can be confiscated in accordance with the law, as well as any other property that can serve as evidence for the prosecution or defense. Seized property should be shown to the owner so that he or she can acknowledge it. A statement relating to the seizure should indicate the seized property and be signed by the person in possession and witnesses, if any. In case of absence or inability or refusal of the possessor to sign the statement of seizure, it shall be noted down in such a statement and the possessor shall be given a copy.

Power to Take Witnesses' Statement (c. 28.2):

220. Pursuant to Article 26 of the CPC, “[a] judicial police officer interrogates suspects and records their statements. The interrogation is conducted in a language the suspect comprehends. A Judicial police officer can as well interrogate any person presumed to have any detail to clarify, and compel him or her to give testimony, after oath, in the manner provided for by Article 56 of this law. He or she can also deny any person from moving away from a specified area until a statement has been taken note of and, if necessary, to compel him or her to remain there.”

221. The FIU took witnesses' statements on this legal basis in several instances following the receipt of STRs from banks. The Intelligence Department of the NRP also heard several witnesses in alleged financing of terrorism cases (although these cases were prosecuted as conspiracy in committing terrorist acts).

Statistics (R.32):

222. Several agencies informed the assessment team that they did not conduct money laundering and/or financing of terrorism investigations. Some statistics were provided regarding the number of predicate crimes cases investigated by different LEAs. Please refer to statistics under Section 1 for more details about the predicate crimes.

Adequacy of resources—LEAs (R. 30):

Financial and Human Resources:

223. LEAs receive sufficient funding from the state budget, which has made it possible for them to improve their material and human resources considerably in recent years. According to the authorities, the NPPA has sufficient financial and human resources to perform its duties. There were few cases of corruption of LEAs during the recent years. However, these cases are limited due to the efficient zero tolerance policy adopted by the government.

Independence, Technical Resources and Training:

224. The RNP benefits from sufficient independence and resources to undertake its functions in an adequate manner. All RNP staff must undergo training in his/her field of work before starting his or her functions with a specific department. Continuous training programs are also conducted, including refreshers and newly introduced courses. These include basic training as well as specialized courses (e.g., anti-terrorism, road and safety, criminal investigations, etc.).

225. The number of prosecutors at the NPPA is also considered to be sufficient to ensure a normal functioning of the investigation and prosecution and an appropriate enforcement of the law. A typical feature of the Rwanda's prosecution framework is the fact that the minister of justice has the power of negative injunction (instructing the Public Prosecutor's Office not to investigate or prosecute). Although this power seems to be very rarely used, it raises an issue in terms of possible political interference in judicial matters.

226. Overall, the level of technical knowledge on AML/CFT issues is low: the training provided to LEAs' agents, including prosecutors, is not sufficient. There is a need for in-depth training on the scope

of predicate offenses, money laundering, and terrorist financing trends and typologies; techniques to investigate and prosecute these offenses; as well as on techniques for tracing property that is the proceeds of crime or is linked to the financing of terrorism.

227. The assessment team was not given the opportunity to meet representatives from the judiciary and was not provided with information on the judiciary's resources.

Implementation and effectiveness:

228. In addition to the core functions of an FIU, the Rwandan FIU was given the mandate to investigate money laundering and terrorist financing cases. At the time of the assessment, the FIU had investigated five cases of potential money laundering and disseminated one to the NPPA. One case of potential terrorist financing had been investigated by the RNP Anti-Terrorist Unit, prosecuted, and was pending before the courts. None of the other LEAs had investigated money laundering cases, although they mentioned that they often investigate predicate crimes that generate considerable amounts of proceeds.

229. While the AML/CFT Law allows for money laundering convictions based on the laundering of property generated by any criminal activity and does not require a conviction for the predicate crime, there seems to be little appreciation for the fact, in many instances, that money laundering is conducted by the perpetrator of the predicate crime.

230. It appears that the LEAs concentrate their investigations solely on the predicate crime and do not follow its proceeds to examine potential money laundering activity.

231. Further, in discussions with the RNP department involved in investigating the predicate crimes and the NPPA, it became clear that they are under the belief that money laundering cases could only be generated by STRs and investigated by the FIU and could not be the object of separate law enforcement actions. In practice, however, experience of other countries has shown that most money laundering cases are developed through the rigorous investigation of the predicate crimes and by following the proceeds generated from those crimes. More importantly, money laundering crimes must be proactively investigated, using such techniques as undercover operations and electronic surveillance.

232. The independence of the prosecution could be jeopardized by the Minister of Justice's power of negative injunction (although required to be motivated by writing) over the Prosecutor General. Although all law enforcement entities have received training on money laundering typologies, they believe that Rwanda is not vulnerable to money laundering. In conclusion, it appears that the investigatory framework of Rwanda is not effective in the fight against money laundering and terrorist financing.

2.6.2 Recommendations and Comments

233. In order to comply fully with Recommendations 27 and 28, the authorities are recommended to do the following:

- Appoint and adequately resource dedicated financial investigators at the NPPA and RNP (other than the FIU) to deal with money laundering cases;

- Provide LEAs with adequate powers to compel the production of documents and information from lawyers;
- Investigate money laundering and/or terrorist financing offenses irrespective of whether the source of information emanates from the FIU or any other source;
- Provide the judiciary with more independence by limiting the power of the Minister of Justice to intervene in the decisions of the Prosecutor General; and
- Provide AML/CFT training to all LEAs and in particular to all dedicated financial crime investigators and prosecutors.

234. The authorities should also consider the following:

- Making a more frequent use of special investigative techniques, such as the monitoring of accounts and special investigative techniques to detect and investigate money laundering and its predicate crimes.

2.6.3 Compliance with Recommendations 27 and 28

	Rating	Summary of factors relevant to s.2.6 underlying overall rating
R.27	PC	<ul style="list-style-type: none"> • The various police units responsible for the investigation of the predicate crimes do not investigate ML-related activities; the FIU conducts some investigations into ML on the basis of STRs received, although it should focus on its analysis functions. • Effectiveness of the current investigation and prosecution framework was not established.
R.28	PC	<ul style="list-style-type: none"> • Lack of powers to compel production of documents and information from FIs and DNFBPs (documents can only be seized based on powers in CPC). • No legal power obtaining documents and information held by lawyers. • Effectiveness of powers for document production, search, and seizure was not established.

2.7. Cross-Border Declaration or Disclosure (SR.IX)

2.7.1 Description and Analysis

Legal Framework:

235. The AML/CFT Law provides for a declaration system.

Declaration or disclosure system for cross-border transportation of cash (cr. IX. 1 to IX. 15):

236. Article 7 of the AML/CFT Law provides that any person who leaves or enters the Republic of Rwanda transporting cash or negotiable bills or exchange of an amount above the threshold set by the FIU without prior declaration (except for funds certified by a withdrawal slip issued by an accredited bank in Rwanda) commits an offense of money laundering. At the time of the assessment, the threshold for declaration had not been set and the powers of customs to implement Article 7 had not been established, thus rendering the declaration system inoperable.

237. The AML/CFT Law and customs law do not provide clear powers for customs to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. Similarly, no provision enables the authorities to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found. Furthermore, there are no proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and TF purposes. The requirement for the retention of records does not extend to all kinds of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. Finally, there is no definition of bearer negotiable instruments.

Implementation and Effectiveness:

238. The FIU staff prepared a draft cross-border cash declaration directive, which is currently pending approval by its Advisory Board. The unit proposed a US\$10,000 threshold. Although the threshold has not been adopted and, as a result, the requirement in the law is not enforceable, the authorities informed the assessment team that two of its staff are present at Kigali airport and are asking passengers to declare the currency they carry based on the US\$10,000 threshold. This resulted in 121 declaration forms being sent to the FIU. They were later analyzed and filed. In less than a month (December 2011 to January 2012), the FIU staff recorded around RF 714 million at Kigali International Airport.

239. In addition, the legal assumption in Article 7 that those who omit to declare or to get a certificate from an accredited bank commit an ML offense is too stringent. The SR.IX requires a country to put in place a declaration system that requires all persons making a physical cross-border transportation of currency or bearer negotiable instruments (BNI) above the threshold to submit a truthful declaration to the designated authorities. The failure to declare or the discovery of a false declaration should not automatically lead to an ML offense. Instead and in accordance with SR.IX, competent authorities should have the authority to request and obtain further information from the carrier with regard to the origin and intended use of the currency of BNI, and, if necessary, seize the currency and BNI (without arresting the passenger) and refer the case to the FIU for further analysis.

240. Furthermore, the exemption related to the funds certified by a withdrawal slip issued by an accredited bank in Rwanda is not in line with the SR.IX requirements. The banks are not supposed to provide certificates that would allow “legitimizing” the source of the funds.

241. The obligation of declaration does not extend to transportation through cargo containers and the mail, and the term BNI is not defined and it was not possible to establish that it covers all the elements required by the standard.

242. Finally, competent authorities do not have the appropriate powers to implement the declaration system as required by the standard.

2.7.2 Recommendations and Comments

243. The authorities are recommended to do the following:

- Ensure that the proposed declaration system has the characteristics described under SR.IX;
- Remove the exemption related to the funds certified by a withdrawal slip issued by an accredited bank in Rwanda;
- Amend the requirements to extend to the shipment of currency and bearer negotiable instruments through cargo containers and the mail;
- Define the term “bearer negotiable instruments” to include monetary instruments in bearer form such as travelers cheques; negotiable instruments (including cheques, promissory notes, and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such a form that title can pass upon delivery; and incomplete instruments (including cheques, promissory notes, and money orders) signed, but with the payee’s name omitted;
- Ensure that competent authorities have the powers to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in cases of suspicion of ML or TF, the temporary restraint measures, and the adequate and uniform level of sanctions;
- Provide competent authorities with the authority to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found, where there is a suspicion of ML or TF, or where there is a false declaration; and
- Once this system is established, competent authorities should be provided with training on the best practices paper for SR.IX.

2.7.3 Compliance with Special Recommendation IX

	Rating	Summary of factors relevant to S.2.7 underlying overall rating
SR.IX	NC	<ul style="list-style-type: none"> • Declaration system is not yet in force and is not in line with the standard. • Exemption regarding the withdrawal of cash from banks could limit the effectiveness of the declaration system. • Lack of clear powers to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. • Lack of powers to be able to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found. • Lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and TF purposes. • The requirement for the retention of records does not extend to all kinds of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. • Absence of clear definition of bearer negotiable instruments. • Lack of implementation of the system transportation of currency and bearer negotiable instruments across all border points. • Lack of training on the best practice of implementing the requirement of SR.IX. • Effectiveness of the declaration system has not been established.

3. PREVENTIVE MEASURES—FINANCIAL INSTITUTIONS

Customer Due Diligence and Record Keeping

3.1. Risk of money laundering or terrorist financing

244. Rwanda has not conducted a systemic review of potential ML and TF risks affecting the Rwandan financial system and/or the reporting entities within the system that could serve as a basis for applying enhanced and/or reduced measures in its financial system. The AML/CFT Law imposes obligations on reporting entities and institutions to comply with the requirements with respect to prevention of money laundering and terrorist financing. There is an obligation to apply enhanced due diligence measures, but it is only applicable to politically exposed persons. As such, the existing AML/CFT legal and supervisory frameworks have been developed without considering ML/TF risk level.

3.2. Customer due diligence, including enhanced or reduced measures (R.5 to 8)

3.2.1 Description and Analysis

Legal Framework:

245. The main relevant texts are the AML/CFT Law and the law 007/2007 (the Banking Law).³⁵ These two texts constitute primary legislation for the purposes of this assessment as they have been issued by a legislative body and impose mandatory requirements with sanctions for noncompliance.

246. The AML/CFT Law sets out basic customer identification, monitoring, and record keeping requirements applicable to “reporting entities.” However, the notion of reporting entities in the context of the Rwandan AML/CFT Law does not cover insurance companies and brokers/agents. As a result, these persons and entities are not subject to the AML/CFT preventive measures obligations. For purposes of this assessment, when the assessors make reference to the term “reporting entities,” particularly in their recommendations, they are referring to “all reporting entities” as defined by the FATF and not as defined by the Rwandan law. Article 3 of the AML/CFT Law states that the provisions of the law shall apply to “*any person or legal entity that, in the framework of its profession, conducts, controls or advises transactions involving deposits, exchanges, investments, conversions or any other capital movement or any other property*,” in particular the following:

- The National Bank of Rwanda;
- Banks and other financial institutions;
- A list of DNFBPs; and
- Travel agencies and non-government organizations.

247. As mentioned above, insurance companies and intermediaries do not conduct any of the activities listed under Article 3 of the AML/CFT Law. As a result, they are therefore not subject to the preventive measures.

248. The authorities indicated that the BNR was included as a reporting entity because it is allowed to open and keep accounts for the public. Pursuant to Article 50 of the Central Bank law, it “may, in accordance with laws in force and its general rules, open and keep current accounts for any public institution, State organ, other central banks, international organizations and diplomat missions.” They indicated further that diplomatic missions can benefit from the following services: (i) money deposit through cash or bank transfer, (ii) money withdrawal through cash or bank transfer, (iii) BNR checks and payment order books, (iv) online access to their account through BNR extranet, and (v) bank account statement. The same applies to public agencies. The authorities also mentioned that the general public may withdraw cash against checks issued by public agencies for services rendered or deposit fund to pay for tender documents relating to tenders from public institutions or to pay courts fees.

249. The financial system consists mainly of the following financial institutions: banks, non-banking financial institutions, insurance brokers/companies, SACCOs, and micro-credit institutions, securities brokers, pension funds, forex *bureaux*, and payment systems/service providers. Money or value transfer systems are licensed by the BNR; however, in the case of Western Union and MoneyGram, these operate

³⁵None of the other relevant laws for the sectors covered by the AML/CFT framework (i.e., Law 52/2008 governing the organization of the insurance business, Law 40/2008 establishing the organization of microfinance activities, Law 01/2011 regulating the capital market in Rwanda, Law 11/2011 establishing the Capital Market Authority, and Law 03/2010 concerning Payment Systems) include AML/CFT-related preventive measures.

through an agency relationship with banks licensed also by the BNR. As of the mission date, there were 14 money transfer services providers.

250. The AML/CFT preventive measures for financial sector entities are set out in Articles 9, 10, 13–17, and 19 of the AML/CFT Law, and address customer identification, reporting of suspicious transactions, recordkeeping, paying attention to complex, unusual transactions, and internal controls.

251. There are no sector-based regulations or other similar enforceable requirements issued by the competent supervisory authorities to complement the legal provisions applicable to all reporting entities with more specific measures and which impose additional mandatory requirements with sanctions for non-compliance.

252. Supervision of the financial sector is carried out by the BNR and the CMA. The BNR supervises the following institutions: banks, microfinance companies, savings and credit institutions, insurance companies and brokers, *bureaux de change*, pension funds, and payment systems/services providers (which includes money remitters). The CMA is the designated competent authority for the entities operating in the securities market (securities brokers, dealers, sponsors, investment advisers, investment managers, custodians, securities exchange, clearing houses, and credit rating agency). However, the AML/CFT Law does not designate or make any reference to the authorities responsible for AML/CFT supervision, and does not refer to any other specific laws. The sector-specific laws provide the legal framework for the BNR and the CMA with respect to prudential supervision, but do not address AML/CFT issues. In addition, although the authorities claim that they are responsible for conducting AML/CFT supervision, neither the BNR nor the CMA have conducted such supervision in practice.

Prohibition of Anonymous Accounts (c. 5.1):

253. Pursuant to Article 9(4) of the AML/CFT Law, financial institutions are prohibited from opening or maintaining anonymous or digitized accounts, as well as accounts with fictitious or incorrect names. However, in the Rwandan context, “financial institutions” do not include banks. According to the authorities, the obligation imposed by Article 9(4) applies equally to banks and to the rest of the financial institutions.

254. While in most cases the provisions of the AML/CFT Law explicitly refer to both banks and financial institutions, Article 9(4) only refers to “financial institutions,” and there are no other provisions in the law that prohibit banks from opening or maintaining anonymous or numbered accounts. Similarly, there is no prohibition on banks and other financial institutions to keep anonymous accounts or accounts in fictitious names.

255. Representatives of the private sector with whom the assessment team met, including banks, stated that they do not open or maintain any anonymous or numbered accounts or accounts in fictitious names. The BNR and CMA confirmed that, to their knowledge, no accounts are held in an anonymous way or under fictitious names. Nevertheless, the legal framework falls short of the standard.

When is CDD required (c. 5.2):

256. Pursuant to Article 10 of the AML/CFT Law, all reporting entities are required to identify their customers in the following cases:

- Prior to establishing a business relationship;
- When they execute occasional transactions exceeding the threshold set by the FIU;
- When they receive a wire transfer that does not contain full information about the originator;
- When there is suspicion of money laundering; and
- When they have doubts about the veracity or accuracy of the customers' previously obtained identification data.

257. The term “identification” as used in Article 10 of the AML/CFT Law includes verification, meaning the presentation, by the customer, of a formal document for the purpose of establishing the identity.

258. Article 2(4) of the AML/CFT Law defines the term “customer” as the natural or legal person that (i) opens a bank account or in the name of whom a bank account is opened, (ii) has the power to sign on that account, (iii) deposits, transfers, or receives money by using that account, and (iv) is authorized to conduct the transaction on that account. This definition is too narrow because it only refers to “bank accounts,” and does not include “withdrawals” or any other services provided by financial institutions.

259. The FIU has not yet set forth the applicable threshold undertaking CDD for occasional transactions; the identification obligation therefore remains inapplicable.

260. In addition, Article 10 only requires reporting entities to undertake CDD when they receive a wire transfer that does not contain full information about the originator. This does not fully comply with criterion 5.2.c), which requires them to undertake CDD when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII. Similarly, there are no requirements for reporting entities to apply CDD measures when there is a suspicion of terrorist financing as requested under criterion 5.2.d). Therefore, Article 10 only partially meets the requirements of criterion 5.2.

Identification measures and verification sources (c. 5.3):

261. According to Article 10 of the AML/CFT Law, all reporting entities are obliged to identify both natural and corporate customers. There are no identification requirements with respect to legal arrangements. Institutions met during the assessment affirmed that they do not open accounts for (foreign) legal arrangements.

262. The identity of a natural person must be verified by the presentation of a valid official identification document including a photograph. The law also provides that an Order of the Minister of Justice will establish a list of the acceptable official identification documents, but as of the mission date, no such Order had been issued.

263. There is no implementing regulation that provides for specific guidance as to the basis (specific documents, data, or information) for identification and verification of the customer, both natural and legal persons.

264. In practice, the standard customer identification data that reporting entities request from natural persons is the Rwandan National Identification card (ID) (for national citizens) and a passport (for foreign customers). These two documents are considered valid official documents that serve for the purpose of identifying and verifying the identity of the customer. All citizens in Rwanda are issued a national ID at the age of sixteen. There is no legal requirement to update the national ID. The national ID is central to the process and is regarded by the financial sector as the primary official document for identification purposes. The authorities indicated that there has been no evidence of large-scale use of forged IDs or passports that might bring into question the validity of relying on these forms of identification. The national ID includes the following information: a unique ID number, name, sex, date of birth, place of birth (sector), place of issuance, and a signature of the holder. The ID has a unique bar code, which includes the date of birth as part of the personal identification number. It does not, however, include the address of the holder. In practice, reporting entities are not able to verify the physical address of the customer using reliable data because streets are not numbered or identified by names but by commonly known points of reference.

265. There is no requirement for physical presence during the account opening process. Customers are allowed to fill out an application online, take it to the embassy/consulate for authentication, and send it via courier or pouch to the financial institution. While most of the financial institutions indicated that, as a general policy, they open the account in the presence of the customer, accounts may also be opened electronically. (Refer to Recommendation 8 below for a detailed description and analysis of non-face-to-face measures.)

266. Pursuant to Article 10 of the AML/CFT Law, “legal persons must be identified with any valid document, in particular their registration certificate. Reporting entities shall take any reasonable measures to verify the identity of their members.” There is nothing defining what valid means, although the registration certificate is a particular example. However, it does not preclude the possibility of using a range of other authentic documents, which may not amount to the value of an adequate identification document. The registration certificate is issued by the Office of Registrar General and constitutes proof of incorporation. It includes the following information: (i) registered corporate name, (ii) legal form, (iii) date and place of incorporation, (iv) type of business, (v) address, and (vi) shareholders, directors, including the managing director, and provisions relating to the powers to bind the legal person. However, Article 10 falls short of the standard, which is not limited to applying reasonable measures. It should be imperative for reporting entities to use reliable, independent source documents, data, or information for the purpose of verifying the identity of the customer.

267. There is no specific indication or guidance as to the type of reasonable measures reporting entities should put in place in order to verify the identity of their members. Most reporting entities indicated that they identify the legal person through its Articles of Incorporation and the certificate of domestic company registration.

268. At the time of the assessment, there were no legal provisions specifically relating to trusts or similar legal arrangements in Rwanda.³⁶ While nothing precluded the financial sector from dealing with funds under a foreign trust, the assessors found no indication that such services were provided in Rwanda, and the authorities could not establish what type of due diligence financial institutions would need to apply if such services were rendered in practice.

Identification of Legal Persons or Other Arrangements (c. 5.4):

269. Pursuant to Article 10, paragraph 5 of the AML/CFT Law, any person known to act on behalf of a customer must present evidence to act on his/her behalf, as well as his/her identity card or an official identification document in conformity with paragraph 2 of the same article. There is no further indication as to which documents would be sufficient to demonstrate that any person purporting to act on behalf of the customer is so authorized. The authorities indicated that FIs always require a power of attorney or any other legal authorization when a person intends to act on behalf of the customer.

270. As for the verification of the legal status of the legal person, financial institutions are required to obtain the certificate of registration, which serves as a proof of incorporation or similar evidence of establishment or existence of the legal person (i.e., address, name of directors, etc.). However, the requirement to obtain a copy of the certificate of registration does not provide necessary information on the provisions regulating the power to bind the legal person. Law No. 7/2009 (law relating to companies) under Article 187 requires the members of the Board of Directors to disclose to or cause it to be registered by the Registrar General within 30 days “any change of name, address or any other details about its members, to updated the information on new Board of Directors.”

271. In addition, reporting entities indicated that they request the national ID of all the shareholders and directors as well as Board’s resolutions authorizing the person to open the business relationship on behalf of the legal person. The authorities were unable to explain how changes regarding shareholders are informed and the frequency for this.

Identification of Beneficial Owners (c. 5.5, 5.5.1, and 5.5.2):

272. Article 10 of the AML/CFT Law states that “*any person known to act on behalf of a customer must present evidence to act on his/her behalf as well as his/her identity card or an official identification document in conformity with paragraph 2 of this Article.*”

273. According to Article 14 of the AML/CFT Law, “*whenever there is uncertainty as to whether the customer acts on his/her personal behalf, the bank or the financial institution shall by all means obtain information in order to establish the exact identity of the principal or the stakeholder on behalf of whom the customer acts. After verification, if the uncertainty persists on the identity of the “economic beneficiary,” the financial institutions shall make a report on a suspicious transaction and forward it to the Financial Investigation Unit.*” No information or guidance is provided to explain who should be considered to be “the principal or the stakeholder” and “the economic beneficiary.” It was therefore not established that this includes the natural person(s) on whose behalf a transaction is being conducted and

³⁶Since then, the authorities issued law No. 20/2013 of March 25, 2013, regulating the creation of trusts and trustees. Considering that the law came into force more than two months after the onsite assessment mission, it is not taken into account for the purpose of the current assessment.

those who ultimately own or control a customer (including natural persons with a controlling interest and those who comprise the mind and management of the company).

274. Proof of the ownership structure of corporate customers is provided by the registration certificate that reporting entities are required to obtain. However, this certificate does not necessarily enable the reporting entity to understand the control structure of the customer and to identify the natural persons with a controlling interest and those who comprise the mind and management of the company.

275. In sum, the AML/CFT legal framework fails to provide a clear definition of beneficial owner and to establish how reporting entities should identify the beneficial owner in case of multi-layered transactions or complex ownership structures.

Information on Purpose and Nature of Business Relationship (c. 5.6):

276. Reporting entities are not required to obtain information on the purpose and intended nature of the business relationship.

Ongoing Due Diligence on Business Relationship (c. 5.7, 5.7.1, and 5.7.2):

277. Reporting entities are not required to conduct ongoing due diligence on the business relationship.

278. Similarly, there is no requirement on reporting entities to ensure that documents, data, or information collected under the CDD process is kept up to date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

Risk—Enhanced Due Diligence for Higher-Risk Customers (c. 5.8):

279. The AML/CFT Law sets a standard due diligence process to be applied in most cases. There is no obligation to apply enhanced procedures with respect to high-risk customers other than politically exposed persons (which is described under Recommendation 6 below).

Risk—Application of Simplified/Reduced CDD Measures when appropriate (c. 5.9), and Risk—Simplification/Reduction of CDD Measures relating to overseas residents (c. 5.10), and Risk-Based Application of CDD to be Consistent with Guidelines (c. 5.12):

280. The Rwandan legislation does not address the application of simplified or reduced CDD measures by reporting entities.

Timing of Verification of Identity—General Rule (c. 5.13), and Timing of Verification of Identity—Treatment of Exceptional Circumstances (c. 5.14 and 5.14.1):

281. The AML/CFT Law does not provide for a delayed verification process. Article 10 requires both identification and verification to take place “prior to establishing a business relationship.”

Failure to Complete CDD before commencing the Business Relationship (c. 5.15), and Failure to Complete CDD after commencing the Business Relationship (c. 5.16):

282. While the AML/CFT Law sets out some basic identification requirements, it does not address the consequences of failure to complete the CDD.

283. The AML/CFT Law is equally silent on what actions a reporting entity should take in the event that it can no longer be satisfied that it knows the genuine identity of a customer for whom it has already opened an account.

284. The authorities indicated, and representatives from the private sector confirmed, that it is industry practice to refuse to conduct a transaction or to establish a business relationship if the customer fails to provide the required CDD information in a timely manner, and that no STR is filed.

Existing Customers—CDD Requirements (c. 5.17), and Existing Anonymous-account Customers – CDD Requirements (c. 5.18):

285. The AML/CFT Law does not address the situation of customers who opened accounts prior to its entry in force. There is therefore no requirement for reporting entities to apply CDD measures to customers with whom they entered into a business relationship prior to 2009 on the basis of materiality and risk and to conduct due diligence on such existing relationships at appropriate times.

Implementation and Effectiveness:

286. Overall, the level of implementation by reporting entities of the CDD measures is low. Amongst the range of reporting entities, only banks were aware of the CDD requirements and were implementing some of the basic CDD measures. The level of compliance within banks seems to be higher due to the fact that banks with foreign ownership are obliged to comply with their home country requirements and AML/CFT group policies that go beyond Rwanda's obligations.

287. There is not the same degree of comfort in the level of compliance with respect to other reporting entities operating in Rwanda: while they do apply customer identification procedures, securities and insurance brokers (the latter is not subject to the AML law), microfinance companies, exchange bureaus, and money remitters appear less familiar or less aware of the more detailed AML/CFT requirements. Securities and insurance brokers have some understanding of the CDD requirements in general, but this is mainly due to prudential compliance under the sector-specific laws and not related to the requirements imposed by the AML/CFT Law.

288. CDD is conducted at the account opening or when the business relationship is established. All reporting entities claim that they rely on the national ID or passport for customers that are natural persons. In practice, however, the lack of legal basis, especially for some of the CDD obligations, could make it difficult for reporting entities to obtain sufficient information and supporting documentation to conduct the required due diligence.

289. In interviews with financial institutions, assessors were informed that some banks were in the process of enabling customers to open accounts remotely. In this regard, the bank's internal policy will require the customer to bring the application and other identification documents to his/her embassy,

consulate, or a bank branch in the home country to authenticate the documents. Once authenticated, the documents will be forwarded to the reporting entity accepting the relationship.

290. There is low level of awareness among reporting entities as to what is required with respect to the identification of beneficial owners, and thus a very low level of compliance with their obligations in this respect. Meetings with reporting entities across sectors revealed that only one bank had a standardized form where the prospective customer should declare if he/she is the beneficial owner, and if such is the case, the customer should reveal his/her name. The other financial institutions (securities brokers, microfinance companies, insurance companies, pension funds, bureaux de change, payment systems/service providers, and securities firms) were not even aware of the requirements.

291. There is a lack of specific provision indicating the type of reasonable measures that reporting entities should put in place in order to verify the identity of legal persons. Financial institutions met indicated that Article 10 of the AML/CFT Law provides flexibility and allows them to ask for any valid document that was deemed reasonable for the purpose of verification, in particular their registration certificate. Overall, all financial institutions informed that for legal persons created in Rwanda they exclusively relied on the certificate of registration.

292. As for the verification of the legal status of foreign companies, financial institutions rely on original documents from the country of origin, without performing further verification. While this might be sufficient in cases where the legal person was incorporated in a country with a reliable system for identification and registration, it might be a problem when coming from a country with weak systems.

293. Reporting entities do not request information related to the purpose and intended nature of the business relationship or the source of wealth and source of funds.

294. Overall, no real ongoing due diligence is conducted. Foreign banks have monitoring systems in place; however, for the rest of the reporting entities, there was no monitoring taking place or when taking place, this was done manually, which represents a significant challenge for timely identification of potential unusual and/or suspicious transactions.

295. Only a few reporting entities (mainly banks) seem to be conducting ongoing due diligence on the business relationship. Due to the lack of specific requirements in the law, it is left up to each institution to determine the frequency for updating customer data.

296. The “high risk categories of customers” is an area of concern. Only a few banks indicated performing enhanced due diligence for certain categories of customers, but generally none of the reporting entities classifies customers based on risk. They therefore treat all their customers in the same way.

297. Another area of concern is the lack of clarity with respect to CDD and recordkeeping responsibilities between the banks and their agents (Western Union and MoneyGram as money remitters) because the assessors were not able to review the AML/CFT responsibilities for the principal and the agent. These two entities are not licensed by the BNR or registered as legal entities in Rwanda. The authorities were unable to explain what the arrangements in place are for customer identification and verification. Similarly, the assessment team was not provided with the opportunity to meet with money remitters, 14 registered as of the mission date, and was therefore unable to assess the level of compliance

with the AML/CFT obligations. The BNR officials were not able to describe the CDD measures established by the money remitters to ensure compliance with the requirements of the AML/CFT Law. In addition, meetings with the BNR and banks revealed that there are inconsistent understandings as to which reporting entity (i.e., the bank or the money remitter) is in practice responsible for implementing the CDD measures and maintaining customer records. (Please see SR.VI for a detailed description regarding alternative remittances.)

298. While failure to complete the CDD process would prevent reporting entities from opening an account, establishing the business relationship, or performing the transaction, none of them would consider filing an STR.

299. Reporting entities also indicated that not all existing customers have undergone the CDD process.

300. In light of the preceding analysis on implementation, effectiveness has not been established.

Recommendation 6:

Legal Framework:

301. Article 16 of the AML/CFT Law imposes specific requirements on reporting entities dealing with a “political leader,” which is defined under Article 2(7) as “any person who is or has been entrusted with prominent public functions in the Republic of Rwanda or in other countries including his/her family members or other persons who are his/her close associates or have business or financial relationships with him or her.” The definition is in line with the definition of politically exposed persons (PEPs) provided in the FATF Glossary, and applies to both domestic and foreign PEPs.

Foreign PEPs—Requirement to Identify (c. 6.1):

302. Pursuant to Article 16 of the AML/CFT Law, reporting authorities, in addition to performing normal due diligence measures, are required³⁷ to have appropriate risk management systems to determine whether the customer is a political leader.

303. Article 2(4) of the AML/CFT Law provides a definition of the term “customer,” but falls short of including the potential customer or the beneficial owner. As such, Article 16 of the AML/CFT Law falls short of requiring reporting entities to have appropriate risk management systems to determine whether the potential customer or the beneficial owner is PEP.

Foreign PEPs—Risk Management (c. 6.2; 6.2.1):

304. Pursuant to Article 16(2) of the AML/CFT Law, reporting entities must obtain the approval of their senior management³⁸ before establishing a business relationship with a political leader. However, the

³⁷While the English version refers to “FIs must be required,” the Kinyarwanda and French versions impose a direct obligation for FIs to have appropriate risk management systems to determine whether the customer is a political leader.

³⁸While the English version refers to “employer,” the authorities stated that the Kinyarwanda version refers to “senior management approval.”

AML/CFT Law is silent with respect to existing customers or beneficial owners who are found to be or become political leaders after the establishment of the business relationship.

Foreign PEPs—Requirement to Determine Source of Wealth and Funds (c. 6.3):

305. Article 16(3) of the AML/CFT Law requires reporting entities to take all reasonable measures to establish the customer's source of wealth and source of funds. However, these requirements do not extend to beneficial owner(s) identified as political leaders.

Foreign PEPs—Ongoing Monitoring (c. 6.4):

306. Article 16(4) requires reporting entities to conduct monitoring of the business relationship with political leaders. It does not, however, require them to conduct enhanced ongoing monitoring on the business relationship as required by the standard.

Domestic PEPs—Requirements (Additional Element c. 6.5):

307. The enhanced measures set out in the law apply to both domestic and foreign PEPs.

Domestic PEPs—Ratification of the Merida Convention (Additional Element c. 6.6):

308. The 2003 United Nations Convention against Corruption was signed by Rwanda in November 2004 and ratified in October 2006. It was promulgated by Presidential Order No. 56/01 of 27/12/2005.

Implementation and Effectiveness:

309. While a few banks have put in place enhanced due diligence measures in line with the AML/CFT Law, the rest of the financial institutions informed the assessors that they undertake the same type of CDD with respect to all their customers. In the absence of specific guidance as to what should be considered a prominent public function in Rwanda or in other countries, no common practice or procedure prevails across reporting entities. Against this background, reporting entities must make their own determination as to the individuals that qualify as political leaders. Considering that most institutions were unaware of the obligations in place, there is a clear need to enforce the requirement across the entire range of the financial sector. Going forward, it would be useful to provide reporting entities with examples of the prominent public functions that would fall under the definition of "political leader" (e.g., heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, and important political party officials).

310. Overall, there is insufficient awareness amongst reporting entities about the enhanced CDD measures that should be implemented with regard to PEPs and, consequently, a low level of implementation of the obligations in place. Effectiveness has therefore not been established with regard to the CDD measures for PEPs.

Cross Border Correspondent Accounts and Similar Relationships—Introduction:

311. The Rwandan legislation is silent with respect to establishing cross-border correspondent accounts and similar relationships.

Requirement to Obtain Information on Respondent Institution (c. 7.1), and Assessment of AML/CFT Controls in Respondent Institution (c. 7.2), and Approval of Establishing Correspondent Relationships (c. 7.3), and Documentation of AML/CFT Responsibilities for Each Institution (c. 7.4), and Payable-Through Accounts (c. 7.5):

312. The existing legal framework does not provide measures for ensuring that reporting entities (i) gather sufficient information about a respondent institution, (ii) assess the respondent institution's AML/CFT controls and ascertain that they are adequate and effective, (iii) obtain approval from senior management before establishing new correspondent relationships, and (iv) document the respective AML/CFT responsibilities of each institution.

313. The authorities stated that cross-border correspondent relationships in Rwanda do not involve payable-through accounts. The same view was shared by the private sector representatives with whom the assessment team met.

Implementation and Effectiveness:

314. Cross-border correspondent relationships only apply to banks and securities brokers, which, in Rwanda, are mainly respondent institutions. Both banks and securities brokers indicated that their relationships are governed by a signed contract documenting the responsibilities of the respondent and the correspondent institution. Two foreign banks indicated that correspondent banking relationships are established at a group level. As for domestic banks and the securities brokers, it was not possible to ascertain whether their contracts with the correspondent institutions include AML/CFT measures in line with Recommendation 7. Although reporting entities indicated that they gathered information when establishing correspondent relationships, they could not establish whether the process also included (i) assessing the reputation of the institution, (ii) assessing the quality of supervision, including whether it has been subject to enforcement action, and (iii) assessing the institution's AML/CFT controls.

315. Effectiveness was therefore not established.

Recommendation 8:

Misuse of New Technology for ML/FT (c. 8.1), and Risk of Non-Face-to-Face Business Relationships (c. 8.2 and 8.2.1):

316. There are no legal requirements to address the money laundering threats that may arise from new or developing technologies, and there is no physical presence requirement for customers opening accounts or otherwise establishing business relationships.

Implementation and Effectiveness:

317. Most banks indicated that as a general policy, potential customers must be physically present in order to open the account.

318. Unlike banks, securities brokers do not require physical presence for the account opening process. The authorities informed that a power of attorney or authorization from the customer is needed to complete the process. Reporting entities also indicated that they have a nominee procedure (nominee account) that allows them to sign the account opening form on behalf of the customer.

319. Investors in securities place their orders through a broker by telephone or in person. Trading on the Stock Exchange is conducted manually and brokers are allowed to accept cash. The authorities stated that brokers use their own discretion with regard to the acceptance of cash.

320. Mobile banking is available in Rwanda and allows customers to check the balance of their accounts as well as to send and receive electronic money (e-money) on their mobile phones. This service is conducted through and supported by a network of agents across the country. The service is SIM based. According to the telephone company visited during the assessment, there are more than 490,000 users across the country. However, no national figures were provided in this respect.

321. The role of the agent is to (i) register new customers, (ii) receive money from registered customers, and (iii) pay out money to customers. The service also includes “receiving international remittances.” The telephone company visited indicated that its agents’ network comprised approximately 760 agents across the country. The agents purchase stock in the telephone company and sell mobile money to the users in return for cash. Agents are paid a commission per transaction. The company in question had reached US\$100 million in transactions since the service was launched and this service is steadily growing in the country. However, no national figures were provided in this respect.

322. Mobile banking is emerging as a viable approach to increasing financial inclusion in the country. However, there is still need for an appropriate regulatory environment for mobile banking, network operators, and the system. As of the mission date, the authorities had not assessed and addressed the ML threats that may arise from this new service. There was lack of appropriate measures in place to deal with non-face-to-face transactions or with new technologies, which posed the system to undue ML/FT risk. There was also no AML/CFT supervision taking place regarding the provision of mobile banking services. The authorities still had a central role to play in setting the appropriate regulatory and supervisory framework. Overall, effective implementation was not established.

3.2.3 Recommendations and Comments

323. The AML/CFT Law includes a number of basic CDD obligations, in particular the obligation to identify the customer. However, it fails to address all the elements required in the standard and, in a number of instances, is too general and lacks the necessary level of detail to be effective. Going forward, the requirements set forth under the AML/CFT Law should be better supported and complemented with sector-specific regulations and guidelines.

Recommendation 5:

324. In order to fully comply with Recommendations 5, 6, 7, and 8, the authorities are recommended to require in law or regulation all financial institutions (as defined in the FATF standard) to do the following:

- Refrain from establishing or keeping anonymous accounts or accounts in fictitious names;
- Undertake CDD measures in the following cases:
 - When carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII; and

- When there is a suspicion of terrorist financing (in addition to the suspicion of money laundering already included in the law), without exceptions and regardless of the amounts involved.
- Establish the applicable threshold for undertaking CDD for occasional transactions;
- Identify their customers and verify that customer's identity using reliable, independent source documents, data, or information (identification data);
- Establish mechanisms for adequately verifying the power to bind the legal person or arrangement;
- Identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner in line with the definition set forth under the standard, which should refer not only to the natural person(s) who ultimately owns or controls a customer and/or the persons on whose behalf a transaction is being conducted but also to the persons who exercise ultimate effective control over a legal person or arrangement, including those who comprise the mind and management of a company; and
- Conduct ongoing due diligence on the business relationship, which should include the scrutiny of transactions undertaken throughout the course of the business relationship and monitoring of the business relationship to ensure that documents, data, or information collected under the CDD process are kept up to date.

325. The authorities are further recommended to require in law, regulation, or other enforceable means financial institutions (as defined in the FATF standard) to do the following:

- Obtain information on the purpose and intended nature of the business relationship;
- Perform enhanced due diligence for higher risk categories of customers, business relationships, or transactions;
- Refuse to open an account, establish a business relationship, or conduct the transaction; and consider making an STR when they are unable to comply with the CDD requirements;
- Terminate the business relationship and consider filing an STR when they have doubts about the veracity or adequacy of previously obtained customer identification data;
- Apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and conduct due diligence on such existing relationships at appropriate times; and
- Perform CDD measures on existing customers who hold anonymous or accounts in fictitious names that predate the AML/CFT Law.

Recommendation 6:

326. The authorities are recommended to provide examples of the prominent public functions that would fall under the definition of “political leader” (e.g., heads of state or government; senior politicians; senior government, judicial, or military officials; senior executives of state owned corporations; and important political party officials).

327. The authorities are also recommended to require reporting entities to do the following:

- Put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner, is a PEP;
- Obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP;
- Establish the source of wealth and the source of funds of beneficial owners identified as PEPs; and
- Conduct enhanced monitoring on that relationship.

Recommendation 7:

328. With respect to cross-border correspondent relationships, require reporting entities to do the following:

- Gather sufficient information about the respondent institution to fully understand the nature of the respondent's business and to determine its reputation and quality of supervision;
- Assess the respondent institution's AML/CFT controls;
- Obtain approval from senior management before establishing correspondent relationship; and
- Document the respective obligations of each institution.

Recommendation 8:

329. Establish measures including policies and procedures designed to prevent and protect financial institutions (as defined by the FATF standard) from money laundering and terrorist financing threats that may arise from new or developing technologies or specific CDD measures that apply to non-face-to-face business relationships and transactions. Authorities are encouraged to consult the Risk Management Principles for Electronic Banking issued by the Basel Committee in July 2003.

3.2.3 Compliance with Recommendations 5 to 8

	Rating	Summary of factors underlying rating
R.5	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • Banks are not prohibited from keeping anonymous accounts or accounts in fictitious names. • No requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII. • No requirement to undertake CDD measures when there is suspicion of terrorist financing.

		<ul style="list-style-type: none"> • No threshold set by the FIU for conducting CDD for occasional transactions and, as such, the identification obligation remains inapplicable. • No mechanisms in place for verifying the power to bind the legal person or arrangement. • No requirement to identify the customer and verify the customer's identity using reliable, independent source documents, data, or information. • No requirement to identify the beneficial owner in line with the standard. No requirement to understand the control structure of the customer and identify those natural persons who ultimately own or control the customer, including those with a controlling interest and those who comprise the mind and management of the company. • No requirement to undertake ongoing due diligence on the business relationship. • No requirement to ensure that documents, data, or information collected under the CDD process is kept up to date, particularly for higher risk categories of customers or business relationships. • No obligation to establish the purpose and intended nature of the business relationship. • No requirement to undertake enhanced CDD for high-risk customers, business relationships, or transactions. • No requirement to reject opening an account/commencing a business relationship/performing the transaction when unable to comply with the CDD measures and to consider making an STR. • No requirement to terminate the business relationship and consider filing an STR in the event that the financial institution can no longer be satisfied that it knows the genuine identity of the customer for whom it has already opened an account. • No requirement to apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and to conduct due diligence on such existing accounts at appropriate times. • No requirement to perform CDD measures on existing customers who hold anonymous accounts or accounts in fictitious names. • Low level of implementation by all reporting entities. • The effectiveness of the CDD measures has not been demonstrated.
R.6	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law.

		<ul style="list-style-type: none"> • No requirement to put in place appropriate risk management systems to determine whether a potential customer, a customer, or the beneficial owner is a PEP. • No requirement to obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP. • No requirement to take reasonable measures to establish the source of wealth and source of funds for the beneficial owners identified as PEPs. • No requirement to conduct enhanced monitoring on the relationship with PEPs. • Low level of implementation. • The effectiveness of the measures related to PEPs has not been demonstrated.
R.7	NC	<ul style="list-style-type: none"> • No measures in relation to cross-border correspondent banking or other similar relationships.
R.8	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement on reporting entities to do the following: • Have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes. • Have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions. • Implement measures for managing the risks, including specific and effective CDD procedures that apply to non-face-to-face customers.

3.3. Third Parties and Introduced Business (R.9)

3.3.1 Description and Analysis

Legal Framework:

330. The AML/CFT Law and other relevant laws are silent with respect to the acceptance by financial institutions of intermediaries or third parties to perform some of the elements of the CDD process or to introduce business.

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1), and Availability of Identification Data from Third Parties (c. 9.2), and Regulation and Supervision of Third Party (applying R. 23, 24, and 29, c. 9.3), and Adequacy of Application of FATF Recommendations (c. 9.4), and Ultimate Responsibility for CDD (c. 9.5)

331. There are no legal or regulatory requirements addressing the reliance by financial institutions on intermediaries or third parties to perform the CDD elements and to comply with the different requirements set out under this Recommendation.

Implementation and Effectiveness:

332. The understanding of the BNR, the CMA, and the reporting entities is that under the AML/CFT Law, the reporting entities are required to undertake their own due diligence process and may not rely on introducers, even from within the same group.

333. However, the absence of any prohibition in this regard could lead to different interpretations by reporting entities. According to the BNR, such reliance is not prevalent in the financial sector and the same view was shared by some representatives of banks. Nevertheless, it cannot be excluded that some financial institutions do rely on third parties to perform some elements of the CDD process without following the requirements envisaged under the standard. Meetings with representatives from the securities sector revealed that there is some reliance on intermediaries or third parties to perform some of the elements of the CDD process without following the requirements envisaged under the standard. In the absence of legal provisions, the existing implementation is not uniform across sectors and institutions, and raises concerns about the effectiveness of the regime.

3.3.2 Recommendations and Comments

334. In order to comply with Recommendation 9, the authorities are recommended to do the following:

- Regulate reliance on intermediaries or third parties to perform elements of the CDD process, and ensure the following:
 - CDD measures performed by the intermediary or third parties are those listed under Criteria 5.3 to 5.6 of the Methodology;
 - The information collected by the third party may be immediately available to reporting entities upon request without delay; and
 - The reporting entities are required to satisfy themselves that the third party is regulated and supervised and to have measures in place to comply with CDD requirements in line with Recommendation 5.
- The ultimate responsibility for customer identification and verification remains with the reporting entities relying on the third party.

3.3.3 Compliance with Recommendation 9

	Rating	Summary of factors underlying rating
R.9	NC	<ul style="list-style-type: none"> Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. No legal or regulatory provisions addressing reliance on third parties to perform elements of the CDD process or introduce business.

3.4. Financial Institution Secrecy or Confidentiality (R.4)

3.4.1 Description and Analysis

Legal Framework:

335. With the exception of a specific requirement in the securities sector, there are no banking secrecy or other confidentiality requirements in the financial sector. The following sector-specific laws ensure that the competent authorities have access to any relevant information, regardless of any contractual confidentiality requirements: Law 55/2007 governing the Central Bank of Rwanda (Central Bank Law), Law 007/2008 (Banking Law), Law 01/2011 (Law regulating the Capital Market in Rwanda), Law 11/2011 (Establishment of Capital Market Authority), Law 52/2008 governing the organization of insurance business, Law 40/2008 (Law establishing the organization of Microfinance activities), and Law 3/2010 (Law concerning Payment Systems).

Inhibition of Implementation of FATF Recommendations (c. 4.1):

336. Article 8 of the AML/CFT Law states that “*every reporting entity, control organ, or auditor must respect the conditions set forth by the law, notwithstanding any obligation of professional secrecy or restriction of divulgence of information imposed by any other law.*”

337. Confidentiality requirements in the banking and insurance sectors are purely contractual in nature: there are no banking secrecy or confidentiality provisions in the relevant laws. The sector-specific laws clearly specify (in addition to Article 8 of the AML/CFT Law) that the competent authority, in this case the BNR, must be granted access to all information it requires to perform its functions. Article 59 of the Banking Law states that no person may invoke professional secrecy as grounds for non-disclosure of information required by the Central Bank. Banks shall *be required to submit*³⁹ to the BNR any “*document, declaration and financial statement. They shall also be required to provide the BNR with any information, clarification, or explanation that it may request.*”

338. Article 54 of the Insurance Law grants the BNR the power to “*seek information and explanation from the officers, employees, agents and representatives of insurers and insurance intermediaries, whether in preparation for, during or after a compliance inspection.*”

³⁹Although the English version of the law mentions that “banks shall be required to submit” the necessary information to the BNR, the French version states that banks are required to submit.

339. Articles 40 and 41 of the Microfinance Law grant the BNR broad powers to supervise and to access information it requires to properly perform its functions.

340. Pursuant to Article 9 of the Payment Systems Law, the BNR may request at any time from the payment service providers any information, document, clarification, proof, and any other element it may require.

341. Participants in the securities sector may not disclose information restricted and related to the business or affairs of any person without the consent of the concerned person⁴⁰ (Article 49 of the Capital Markets Law). This restriction does not, however, preclude the disclosure of information on the following: (i) criminal proceedings, (ii) civil or disciplinary proceedings or proceedings before the Independent Review Panel, (iii) aiding or assisting the Authority to exercise any powers conferred to it by this Law, (iv) aiding or assisting a securities exchange, a clearing house, and a compensation scheme in accordance with such Law, (v) aiding and assisting the Central Bank of Rwanda to fulfill its mission, and (vi) aiding or assisting foreign agencies with a mission similar to that of the Authority (Article 50 of the same law).

342. As of the time of the assessment, LEAs could obtain all documents and information other than those held by lawyers by using their powers of search or seizure after obtaining a warrant from the public prosecutor. According to the authorities, there is, in practice, no impediment for LEAs to access information they require to properly perform their functions in combating ML or FT.

343. Financial secrecy does not constitute an impediment for the effective implementation of the FATF Recommendations.

Sharing of information between competent authorities:

344. Within the domestic context, the legal framework does not provide the BNR with the power to share information with other competent authorities in Rwanda. The authorities stated that although there is no legal provision in this regard, the BNR shares information in practice, but not for AML/CFT purposes, considering that it has not conducted AML/CFT supervision. Within the international context, the Central Bank Law does provide the BNR with the capacity to share information with its foreign counterparts, but this does not apply to AML/CFT.⁴¹

⁴⁰This prohibition does not apply to (i) the CMA, (ii) any body or agency in charge of administering a compensation scheme, (iii) the BNR, (iv) any member of the Independent Review Panel, (v) any person appointed or licensed to exercise any powers of investigation, (vi) any officer of any body or agency referred to under points (1) to (5) of Article 49. Paragraph 3 states that the same applies to “any person who obtained the information directly or indirectly from the persons mentioned in paragraph 2 of the same article. The article shall not preclude the disclosure of information for the purpose of enabling any public or other body to discharge its responsibilities as may be specified by the Authority’s regulations.”

⁴¹Article 72 of the Central Bank Law states that in the execution of its functions, the BNR shall be authorized to engage in cooperation relationship with foreign central banks, foreign supervisory authorities, foreign regulators, and international institutions. In addition to this, Article 58, section 3 of the Banking Law provides for consolidated supervision and grants the Central Bank the power to “*set out modalities of cooperation with the supervisory authority of the host country by means of a cooperative agreement.*”

345. As for the securities sector, Article 3, section 3 of Law 11/2011 grants the CMA the power to cooperate and collaborate with other regulatory bodies in accordance with the provision of the law regulating the capital market in Rwanda. The CMA also has the legal powers to share information with other international competent authorities. Such powers are granted under articles 51, 52, 57, and 58 of the Capital Markets Law, and Article 3 paragraph 14 of Law 11/2011. Article 51 of Law Capital Markets Law provides for the possible assistance by the authority to other foreign regulatory authorities and sets forth the following. In addition, Article 52 of the same law further provides for the conditions to fulfill prior to the provision of assistance to foreign regulatory authorities. In this regard, the Authority should among other issues consider the following: (i) whether the foreign regulatory authority is a legally recognized authority, (ii) whether the assistance sought would be used by the foreign regulatory authority in fulfilling its responsibilities, (iii) whether the foreign regulatory authority would provide comparable assistance to the Authority, (iv) whether the foreign regulatory authority would comply with any condition the Authority may impose on the transmission of such information, and (v) whether the foreign regulatory authority is able to keep the information provided confidential.

346. In practice, both the BNR and the CMA have signed Memorandums of Understanding (MOUs) both domestically⁴² and internationally,⁴³ but these do not cover AML/CFT issues. In addition, neither the BNR nor the CMA has been designated as an AML/CFT supervisor, which adversely affects their ability to share information for AML/CFT purposes.

Sharing of information between financial institutions:

347. According to the authorities, nothing prevents the sharing of information between financial institutions where this is required by R.7, R.9, or SR.VII. There is, however, no provision in the legal or regulatory framework related to cross-border correspondent relationships or intermediaries/introduced business. The authorities indicated that, despite the lack of legal requirements, both with respect to the sharing of information and the obligations related to R.7 and R.9, financial institutions do share information as required under R.4 through their respective associations (Banking/Insurance Associations). However, no information was provided as to how this is done in practice.

Implementation and Effectiveness:

348. There appear generally to be no restrictions to the access by the BNR and CMA to information held by institutions under their supervision. Discussions with financial institutions indicated that they consider that they have an obligation to submit whatever information may be requested by the authorities, and that they are not inhibited from providing the information by any statutory provisions. However, the

⁴²Within the domestic sector, the following MOUs have been signed: (i) MOU between the BNR and the CMA on cooperation and information sharing, and (ii) MOU between the CMA and the Institute of Certified Public Accountants in Rwanda.

⁴³At regional level, the following MOUs have been signed: (i) MOU between the Central Bank of Nigeria and the National Bank of Rwanda on cross-border supervision and information sharing, (ii) MOU between the National Bank of Rwanda and the Bank of the Republic of Burundi, the Central Bank of Kenya, the Bank of Tanzania, and the Bank of Uganda on cooperation in supervision of financial institutions, and (iii) MOU between the CMA and the four East African Capital Market Regulators, “East Africa Securities Regulatory Authorities Association” on information sharing, capacity building, and enforcement. These MOUs broadly cover the exchange of information without any specific reference to AML/CFT issues.

authorities could not demonstrate that, in practice, they have asked for and shared information on AML/CFT issues, at both domestic and international levels. In fact, the MOUs that have been signed do not address AML/CFT issues.

349. Despite the information provided by BNR and the CMA, financial institutions were not fully aware of the ability to share information with other financial institutions in matters related to cross-border relationships, intermediaries, or wire transfers.

3.4.2 Recommendations and Comments

350. The authorities are recommended to do the following:

- Ensure that the BNR is granted the power to exchange AML/CFT information with other domestic competent authorities.
- Ensure that competent authorities share information on AML/CFT-related issues at both domestic and international levels.
- Ensure that reporting entities are allowed to share information required under R.7, R.9, or SR.VII.

3.4.3 Compliance with Recommendation 4

	Rating	Summary of factors underlying rating
R.4	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • The mechanisms in place for exchanging and sharing information among competent authorities do not address AML/CFT matters. • Effectiveness was not established with respect to the sharing of information between competent authorities, at both domestic and international levels.

3.5. Record keeping and wire transfer rules (R.10 and SR.VII)

3.5.1 Description and Analysis

Legal Framework:

351. AML/CFT Law, Law 7/2008 (law concerning the organization of banking), Regulation 2/2010 governing Payment Services Providers.

Record-Keeping and Reconstruction of Transaction Records (c. 10.1 and 10.1.1):

352. Pursuant to Article 17(2) of the AML/CFT Law, reporting entities are required to maintain for at least ten years all necessary records on transactions at the national or international level.⁴⁴ In addition, Article 17(3) states that “*persons required to exercise due diligence shall maintain account books and business correspondence for a period of at least ten years after the end of the business relationship.*” The authorities stated that the term “account books” refers to “accounting records,” which include all the relevant information on the transactions performed by the customer (i.e., nature and date of transaction, type and amount of currency involved, type and identification number of any account involved in the transaction, etc.).

353. The record-keeping requirement for transaction records, a period of 10 years, seems overall sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. However, some other necessary components of transaction records (i.e., customers’ and beneficiary’s name, address, or other identifying information normally recorded by the financial institution) are not properly maintained and, as such, the shortcomings identified under Rec.5, in particular with respect to obtaining adequate customers’ and beneficial owner’s identification documents (identification data), coupled with the challenges in verifying the physical address of the customer, affect the effective implementation of the record-keeping requirements.

Record-Keeping for Identification Data, Files and Correspondence (c. 10.2):

354. Article 17(1) of the AML/CFT Law requires reporting entities to keep records on the identification data obtained through or presented during the CDD process for a period of at least 10 years after the end of the business relationship. In the case of an occasional customer, the ten-year period starts from the conclusion of the transaction. Article 17(3) mentioned above sets out a requirement to maintain business correspondence for a period of at least ten years after the end of the business relationship. There is no requirement to maintain account files in line with criterion 10.2 (i.e., account applications, related business activity, and any other supporting information related to the identification data).

Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

355. Pursuant to Article 17(4), “*identification data and transactions records are immediately given to the requesting competent domestic authorities upon authorization by the Financial Investigation Unit.*” However, the requirement is too restrictive because access is only possible upon authorization by the FIU.

Obtain Originator Information for Wire Transfers (applying c. 5.2 and 5.3 in R.5, c.VII.1), and Inclusion of Originator Information in Cross-Border Wire Transfers (c. VII.2):

356. In Rwanda, only banks and money remitters are licensed to provide payment services. However, only banks can conduct wire transfer activities. In the case of money remitters, payment services are conducted through banks, which are the only institutions having direct access to the Central Bank Payment System (Article 9(3) of Banking Law). Large money remitters such as Western Union and MoneyGram are not licensed by the BNR or incorporated as legal entities in Rwanda, but operate through

⁴⁴While the English version of the law refers to “*reporting authorities*,” the French and Kinyarwanda texts refer to “*reporting entities*.” According to the authorities, the English wording is erroneous, and the obligation is clearly on the reporting entities—not on the authorities—as indicated in the French and Kinyarwanda versions.

an agency relationship agreement with local banks. As such, they are not allowed to conduct wire transfers.

357. According to Article 6 paragraph 1 of the AML/CFT Law, “*any transfer of money or negotiable instruments destined for or coming from a foreign country, of an amount at least equal to a threshold (still to be set) by the FIU, must be performed by a bank, a financial institution or an authorized money remitter.*” Pursuant to paragraph 2, banks, other reporting entities, and money remitters must include “accurate originator information” on all money transfers, electronic or other, along with any other related message. This information must go along with the transfer through the payment chain. The law does not define what is meant by “accurate originator information.” The authorities understand this to cover the originator’s name, account number, and address (“full originator information”), but could not corroborate that this information is indeed required in practice.

358. There is no specific requirement for ordering financial institutions to obtain and maintain in all wire transfers of EUR/US\$1,000 or more, the information related to the originator of the wire transfer as requested under criteria VII.1 [i.e., the name of the originator, the originator’s account number (or unique reference number if no account number exists), and the originator’s address]. Similarly, there are no requirements for ordering financial institutions to verify the identity of the originator in accordance with Recommendation 5.

359. There are exceptions to the rule for the following: i) wire transfers performed with credit or debit card so long as the number appears in the included information; however, it applies when the credit or cash cards are used as a means of payment, and ii) “wire transfers and payments when the originator subject to the obligation of providing information and the beneficiary are financial institutions which are acting on their own account” (paragraphs 3 and 4 of the same Article). These exceptions are in line with the type of payments listed in the Interpretative Note to SR.VII and to which the recommendation does not apply.

360. Article 10 of the AML/CFT Law also requires reporting entities to identify their customers when they receive a wire transfer that does not contain full information about the originator. The authorities could not explain the rationale for this requirement.

361. In practice, Article 6 does not apply, considering that the FIU has not yet set the threshold applicable to cross-border wire transfers.

Inclusion of Originator Information in Domestic Wire Transfers (c. VII.3):

362. According to the authorities, the obligation set in Article 6 paragraph 2 to include “accurate originator information” in the transfer applies to both cross-border and domestic transfers. However, the law is ambiguous in this respect, as the text of paragraph 1 seems to limit the scope of Article 6—including its paragraph 2—to cross-border transfers of an amount equal to or above the threshold.

Maintenance of Originator Information (“Travel Rule”) (c.VII.4); and Risk Based Procedures for Transfers Not Accompanied by Originator Information (c.VII.5):

363. There is no requirement for each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the

transfer. Similarly, there are no rules that govern the measures (other than the identification of the bank's own customer) that should be taken when wire transfers are not accompanied by complete originator information.

Monitoring of Implementation (c. VII.6):

364. There are no measures in place to effectively monitor the compliance of financial institutions with rules and regulations implementing SR.VII. The Regulation 002/2010 of the BNR governing payment service providers sets out, as a condition for obtaining the necessary license, the submission to the BNR of the "proof of ability" to comply with all AML/CFT measures (Article 4, paragraph 9). However, the BNR could not establish whether this had been implemented, and, in any event, had not examined, after the license has been granted, whether the payment providers are still able to, and do, in practice, comply the requirements on wire transfers.

Application of Sanctions (c. VII.7: applying c.17.1 – 17.4):

365. Once a license has been granted, there are no sanctions for non-compliance with the wire transfer obligations.

Additional elements: elimination of thresholds (c. VII.8 and c. VII.9):

366. At the time of the assessment, the FIU has not yet set the threshold applicable to cross-border wire transfers.

Implementation and Effectiveness:

R.10:

367. The assessors were informed by the BNR, the CMA, and the private sector representatives across all financial sectors that reporting entities retain all business records for at least ten years and that such records are available to competent authorities. However, in practice, banks, insurance companies, and securities firms comply with this obligation as imposed by sector specific laws. With respect to AML/CFT, only banks were aware of the record-keeping requirement, which reflects low level of effectiveness and implementation of the obligations set forth under the AML/CFT Law. The documentation maintained includes copies of the documentation obtained during the customer identification process (account applications for both natural and legal persons and copies of national ID, passports (for natural persons), and certificates of incorporation, articles of associations, powers of attorneys, etc., as well as the transaction history on the customer's account. However, there are some necessary components of transaction records, which include the identification of the customer and the beneficial owner, and the ability to verify the address using independent and reliable data, which are not properly maintained. The shortcomings noted with regard to the implementation of the CDD measures have an impact on the effective implementation of the record-keeping requirements.

SR.VII:

368. Wire transfers are carried out using the SWIFT system, which requires that all fields in the message order are adequately completed. In this respect, representatives from banks indicated that the system is designed to detect the lack of originator information in the instructions, and that no transaction

would take place if any information is missing. Banks' representatives indicated that, in practice, when a transfer is received without adequate originator information, it is placed "on hold" until the remaining information is provided. However, the absence of complete information is not considered a factor in assessing whether a transaction should be reported to the FIU, and no reports have therefore been filed for failure to provide full originator information. Financial institutions met by the assessors all indicated not having any major issue with respect to the implementation of requirements on wire transfers but showed a low level of awareness as to how the relevant AML/CFT controls should apply in this regard.

3.5.2 Recommendations and Comments

369. In order to fully comply with the requirements of Recommendation 10 and SR.VII, the authorities are recommended to do the following:

Recommendation 10:

- Require financial institutions to maintain records on account files;
- Ensure that all customer information required under Recommendation 5 is properly maintained;
- Ensure that there is no restriction to timely access to customer and transaction records by competent authorities.

Recommendation SR.VII:

- Require financial institutions conducting wire transfers (both domestic and international) of EUR/US\$1,000 or more to obtain and maintain full originator information (i.e., the originator's name, account number, and the address) and to verify the identity of the originator in accordance with Recommendation 5;
- Require each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies the wire transfer is transmitted with the transfer;
- Require beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information as a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR.VII;
- Monitor the compliance of financial institutions with the requirements set forth under SR.VII; and
- Ensure that there are effective, proportionate, and dissuasive sanctions for failure to comply with the wire transfer requirements.

3.5.3 Compliance with Recommendation 10 and Special Recommendation VII

	Rating	Summary of factors underlying rating
R.10	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to maintain accounts files. • Limitation/restriction of competent authorities' access on a timely basis to customer and transaction records. • The shortcomings identified under Recommendation 5 affect the effectiveness and implementation of the record-keeping measures with regard to the necessary components of transaction records (i.e., address, beneficiary's name).
SR.VII	NC	<ul style="list-style-type: none"> • No requirement for reporting entities conducting wire transfers both domestic and international of amounts equivalent to EUR/US\$1000 or more to obtain and maintain full originator information. • No requirement for ordering financial institutions to verify the identity of the originator in accordance with Recommendation 5. • Lack of clarity as to whether originator information should be included in domestic wire transfers. • No requirement on intermediaries and beneficiary financial institutions in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. • No requirement on beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR.VII. • No supervisory framework to ensure compliance with the wire transfer requirements after the granting of the necessary license. • No sanctioning regime for failure to comply with wire transfer requirements. • Lack of effective implementation.

3.6. Monitoring of Transactions and Relationships (R.11 and 21)

3.6.1 Description and Analysis

Legal Framework:

370. The AML/CFT Law establishes the framework for preventive measures for reporting entities with respect to monitoring unusual transactions (R.11) and paying special attention to countries not sufficiently applying the FATF Recommendations (R.21). There were no AML/CFT regulations in place at the time of the assessment. Draft regulations had been prepared but were not shared with the assessors.

Special Attention to Complex, Unusual Large Transactions (c. 11.1), and Examination of Complex and Unusual Transactions (c. 11.2), and Record-Keeping of Findings of Examination (c. 11.3):

371. Reporting entities⁴⁵ are required to pay special attention to all complex, unusual patterns of transactions or exceptionally large transactions, which have no apparent economic or visible lawful purpose. They must examine the background and purpose of such transactions, establish their findings in writing, and transmit a report the transaction to the FIU (Article 15, paragraph 1 of the AML/CFT Law). In line with the obligation established under Article 17, paragraph 2, reporting entities are required to maintain, for a period of at least 10 years, all necessary records on transactions at the national and international level. They are not, however, required to make their findings available for competent authorities and auditors.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 and 21.1.1), and Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2):

372. Pursuant to Article 15, paragraph 2 of the AML/CFT Law, reporting entities are also required to pay special attention to business relationships and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for in the Rwandan AML/CFT Law. However, the requirement does not extend to countries that do not apply the standard on combating terrorist financing. In addition, there are no measures in place to advise reporting entities on concerns about weaknesses in the AML/CFT systems of other countries.

373. Although there are obligations on reporting entities to pay special attention to all complex, unusual patterns of transactions or exceptionally large transactions that have no apparent economic or visible lawful purpose, to examine the background and purpose of transactions, and to document their findings in writing as described under R.11 above, these obligations do not extend to business relationships and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for in the Rwandan AML/CFT Law.

Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

374. The AML/CFT framework does not address possible counter-measures to protect Rwanda's financial sector from the risk arising from countries that continue not to apply or insufficiently apply the FATF Recommendations.

⁴⁵The English translation of the AML/CFT Law refers to "reporting authorities." The French version, however, refers to "reporting entities," which, according to the authorities, reflects the legislator's intention as well as the content of the Kinyarwanda version. The inconsistency in the English translation has no bearing on the assessment.

Implementation and Effectiveness:

375. Meetings with representatives from the private sector revealed limited knowledge of the requirement and inconsistencies in its implementation with few banks (namely generally those with a parent company abroad), demonstrating a better understanding of the requirement. During the same meetings, representatives indicated that some of their entities (with the exception of banks) did not have an automated system to monitor transactions on a real-time basis. As such, the monitoring of transactions was conducted manually and at the end of the day. In several instances, representatives from reporting entities visited were not aware of the AML/CFT Law in place or of its requirements; therefore, no monitoring of unusual transactions was taking place.

376. In light of the inconsistencies between foreign banks and other reporting entities, the implementation of the requirement is not considered effective.

3.6.2 Recommendations and Comments:

377. In order to comply fully with the standard, the authorities are recommended to do the following:

Recommendation 11:

- Require reporting entities to keep the findings of their analysis and examination of unusual transactions available for competent authorities and auditors.

Recommendation 21:

- Ensure that the reporting requirement extends to combating terrorist financing;
- Ensure that reporting entities are advised of concerns about weaknesses in the AML/CFT systems of other countries;
- Extend the obligation on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and to keep their written findings of those transactions available to assist competent authorities and auditors for business relations and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for the Rwandan AML/CFT Law; and
- Establish mechanisms for applying counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.

3.6.3 Compliance with Recommendations 11 and 21

	Rating	Summary of factors underlying rating
R.11	NC	<ul style="list-style-type: none"> • No obligation to make findings of examinations of complex and unusual transactions available to competent authorities and auditors. • Limited knowledge of the requirement coupled with ineffective implementation due to non-automated systems for monitoring transactions. • Lack of effective implementation.
R.21	NC	<ul style="list-style-type: none"> • Lack of measures to advise reporting entities of concerns about weaknesses in the AML/CFT systems of other countries. • Lack of requirements imposed on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and that the written findings of those business transactions be available to assist competent authorities and auditors. • Lack of counter-measures in place to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations. • Lack of effective implementation.

3.7. Suspicious Transaction Reports and Other Reporting (R.13-14, 19, 25 and SR.IV)

3.7.1 Description and Analysis⁴⁶

378. The AML/CFT Law provides the legal framework for the reporting of transactions to the FIU, which includes the filing of reports for any suspicion of money laundering and terrorist financing, and for any unusual transaction that is not justified. The scope of the suspicious transaction reporting requirement is too narrow, both with respect to money laundering and to terrorist financing.

379. The level of reporting is extremely low (only six STRs submitted by banks since the establishment of the FIU in May 2011) due to the lack of awareness of the obligations imposed by the AML/CFT Law.

Legal Framework:

380. The obligation to report suspicious transactions to the FIU is set out in Article 21 of the AML/CFT Law. Like other AML/CFT preventive measures, it applies to all reporting entities (natural or legal person) listed under Article 3 of the law, namely those who, in the framework of their profession,

⁴⁶The description of the system for reporting suspicious transactions in section 3.7 is integrally linked with the description of the FIU in section 2.5 and the two texts need not be duplicative. Ideally, the topic should be comprehensively described and analyzed in one of the two sections, and referenced or summarized in the other.

conduct, control, or advise transactions involving deposits, exchanges, investments, conversions, or any other capital movement or any other property, in particular, the BNR, banks, and other nonbank financial institutions (microfinance institutions, payment systems/service providers, money remitters, and *bureaux de change*). The obligation does not, however, extend to insurance companies and insurance brokers/agents because they are not covered by the definition of reporting entity.

381. No regulations or guidelines have been issued to provide further guidance to entities on the reporting of suspicious transactions.

Requirement to Make STRs on ML and TF to FIU (c. 13.1 and IV.1), and STRs Related to Terrorism and its Financing (c. 13.2), and Additional Element—Reporting of All Criminal Acts (c. 13.5):

382. Reporting entities must, whenever they have reasonable motives to suspect that the funds or movement of funds are linked, associated, or destined to be used in money laundering activities or for financing terrorism, terrorism or acts of terrorism, or of terrorist organizations, report immediately their suspicion to the FIU. They must also immediately convey to the FIU any additional information that may confirm or deny their suspicion (Article 21 of the AML/CFT Law). Although the requirement is for reporting entities to report when “they have reasonable motives to suspect,” meetings with representatives of the banking sector revealed that their practice is to report transactions when they suspect that the transaction is linked to potential money laundering or terrorist financing.

383. As mentioned under Recommendation 1 above, the money laundering offense covers most, but not all, of the designated categories of predicate offenses. The scope of the reporting obligation and its reference to “money laundering activities” is therefore too limited. With respect to terrorism and its financing, the reporting obligation also falls short of the standard, considering that it does not address suspicions that funds may be linked or related to individual terrorists, terrorist organizations, and those who finance terrorism.

No Reporting Threshold for STRs (c. 13.3):

384. There is no explicit obligation to report attempted transactions. The authorities were not able to explain whether attempted transactions are implicitly included under the requirement of Article 21 of the AML/CFT Law. Meetings with representatives of the banking sector revealed that they would report attempted transactions as a matter of good practice (or in compliance with a requirement imposed by their parent companies abroad), but none have been reported so far.

385. In line with the standard, there are no thresholds contained in the law that would limit the range of suspicious transactions to be reported.

Making of ML and TF STRs Regardless of Possible Involvement of Tax Matters (c. 13.4, c. IV.2):

386. There is no explicit restriction in the law and no other indication that would suggest that the reporting requirements may be limited when the transactions are also thought to involve tax matters. As of the mission date, no tax-related STRs had been reported to the FIU.

Protection for Making STRs (c. 14.1):

387. No proceedings for breach of professional secrecy can be brought against the executive officers and employees of reporting entities who, in good faith, have transmitted information or submitted STRs to the FIU, even if the investigations or the court orders did not result in any conviction (Article 27(3) of the AML/CFT Law).

388. The authorities were not able to establish whether the protection extended to the independent or external members of the board of directors, managers, and any agents or representatives of the entities. Notwithstanding the need for implementing regulations, the protection granted under Article 27(3) above nevertheless seems sufficiently broad to provide general protection. Meetings with reporting entities, banks in particular, did not reveal any concerns with respect to the protection granted by the AML/CFT Law (other reporting entities were not aware of the protection as granted by the AML/CFT Law).

Prohibition Against Tipping-Off (c. 14.2):

389. Reporting entities are prohibited from revealing to their customers or to third parties that information has been communicated to the FIU or that a report related to money laundering or financing of terrorism has been submitted to the FIU (Article 22 of the AML/CFT Law). The authorities described “third parties” as any other person (natural or legal) not related to the customer or the reporting entities. BNR officials indicated that the BNR is not considered a third party.

Additional Element—Confidentiality of Reporting Staff (c. 14.3):

390. The law does not address this element, but the authorities indicated that in practice the names and personal details of staff of reporting entities that make an STR are kept confidential by the FIU.

Consideration of Reporting of Currency Transactions Above a Threshold (c. 19.1):

391. Rwanda has considered the feasibility and utility of a threshold-based reporting system and included a reporting obligation in its AML/CFT Law: pursuant to Article 18, reporting authorities are required to report to the FIU, using the appropriate form and time determined by regulations set by the FIU, all cash transactions above the threshold set out by the FIU. The article also provides that this requirement is not applicable when both the sender and the recipient are “banks or financial institutions.”

392. Reporting authorities are also required to report to the FIU all transactions above the established threshold if they are part of transactions that are or seem to be linked and in the aggregate would exceed the established threshold.

393. At the time of the assessment, no threshold had been set.

Additional Element—Computerized Database for Currency Transactions Above a Threshold and Access by Competent Authorities (c. 19.2): and Additional Element—Proper Use of Reports of Currency Transactions Above a Threshold (c. 19.3):

394. The authorities indicated that there are no systems in place yet for reporting cash transactions to the FIU.

Feedback and Guidelines for Financial Institutions with respect to STR and other reporting (c. 25.2) [Note: guidelines with respect other aspects of compliance are analyzed in Section 3.10]–Feedback to Financial Institutions with respect to STR and other reporting (c. 25.2):

395. At the time of the assessment, no feedback or guidelines had been provided to the reporting entities with respect to their reporting obligations.

Statistics (R.32):

396. Statistics provided by the FIU during the assessment indicated that since it became operational in 2011, six STRs have been filed. All six were sent by banks. No other statistics were provided by the BNR.

Implementation and Effectiveness:

397. As mentioned above, implementation of the reporting obligation is low. This can be partly explained by the fact that although the AML/CFT Law has been in force since 2009, the FIU was not established until 2011.

398. Overall, the system for reporting suspicious transactions does not seem to be effective. This conclusion is supported by the low number of reports submitted to the FIU, and the very low level of awareness among the reporting entities (with the limited exception of foreign owned banks, where the level of awareness was slightly better). The assessors are of the view that guidance and outreach activities are needed.

3.7.2 Recommendations and Comments:

399. The main deficiency of the current reporting requirement is its limited scope. In order to comply fully with Recommendations 13, 14, 19, 25, and 32, the authorities are recommended to do the following:

- Amend the reporting obligation to apply to all the predicate offenses designated by the FATF;
- Include insurance companies and insurance brokers/agents in the definition of reporting entity to ensure that the reporting obligation covers them as well;
- Require all reporting entities (as defined in the FATF standard) to report all transactions, including attempted transactions, when they suspect or have reasonable grounds to suspect that the funds are the proceeds of a criminal activity, or are related or linked to, or to be used for terrorism, terrorist acts, or terrorist organizations, or those who finance terrorism;
- Ensure that competent authorities, and particularly the FIU, provide guidance to assist reporting entities on AML/CFT issues covered under the FATF recommendations, including, at a minimum, a description of ML and FT techniques and methods, and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective;
- Establish communication mechanisms between the BNR, the FIU, and the CMA, as well as a mechanism for providing feedback to reporting entities including general and specific or case-by-case feedback;

- Consider providing guidance to reporting entities using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons; and
- Although not a technical deficiency, it may be useful to clarify that the protection for good faith reporting extends to the members of the board of directors or managers, the board committees, the compliance officer, other officers of the reporting entities, and any agents or representatives of the reporting entities.

3.7.3 Compliance with Recommendations 13, 14, 19, and 25 (criteria 25.2), and SR.IV

	Rating	Summary of factors underlying rating
R.13	NC	<ul style="list-style-type: none"> • The scope of the reporting obligation is too narrow because the money laundering offense does not apply to all the predicate offenses designated by the FATF. • The reporting obligation does not extend to insurance companies and insurance brokers/agents. • There is no obligation to report attempted transactions. • There is no obligation to report funds suspected of being linked or related to or to be used by individual terrorists. • Implementation of reporting obligation is low.
R.14	C	This recommendation is met.
R.19	C	This recommendation is met.
R.25	NC	<ul style="list-style-type: none"> • Lack of guidelines and guidance on reporting obligation. • Lack of adequate and appropriate feedback from competent authorities, in particular the FIU.
SR.IV	NC	<ul style="list-style-type: none"> • There is no obligation to report funds suspected of being linked or related to or to be used by individual terrorists, terrorist organizations, or those who finance terrorism.

Internal controls and other measures

3.8. Internal Controls, Compliance, Audit, and Foreign Branches (R.15 and 22)

3.8.1 Description and Analysis

Legal Framework:

400. The AML/CFT Law requires reporting entities to develop and maintain anti-money laundering and combating the financing of terrorism programs, designate a compliance officer at the management level, and establish mechanisms for recruiting staff. However, with the exception of banks, none of the reporting entities have adopted, developed, or implemented policies and procedures in line with these

requirements. The obligation does not extend to insurance companies and insurance brokers/agents as these are not included in the definition of reporting entities.

Establish and Maintain Internal Controls to Prevent ML and TF (c. 15.1, 15.1.1, and 15.1.2) and Employee Screening Procedures (c. 15.4):

401. Reporting entities⁴⁷ are required to develop and maintain programs “which are against money laundering and terrorist financing.” The programs should contain a number of elements, such as “the improvement of policies, procedures and controls including recruitment supervision mechanisms to check whether recruitment requirements are satisfactorily complied with” and “the designation of inspections at the management level” (Article 19 (1) and (2)). The authorities stated that, although this is not explicitly mentioned in the law, the intention of the legislator was to include a requirement to designate a compliance officer at the management level. The authorities acknowledged that the text should be clarified on this point.

402. The obligations under Article 19 (1) and (2) are very general and lack the necessary level of detail required by the standard. In particular, they do not establish the type of procedures, policies, and controls required (such as CDD measures), nor do they address record retention, detection of unusual and suspicious transactions, and the reporting obligation.

403. In addition, there are no obligations on reporting entities to (i) communicate the internal procedures, policies, and controls to prevent ML and FT to their employees, and (ii) grant the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information.

404. The authorities indicated that the requirement addressing “recruitment supervision mechanisms” refers to measures for hiring potential employees, and includes conducting face-to-face interviews, verifying previous employment references and personal references, and obtaining a “Certificate of Good Conduct” from law enforcement agencies.

Independent Audit of Internal Controls to Prevent ML and TF (c. 15.2):

405. Pursuant to Article 19(4) of the AML/CFT Law, the programs required should also include “a permanent audit function to ensure the conformity and the efficiency” of the AML/CFT measures adopted in compliance with the law. There is, however, no obligation to have an independent and well resourced audit function.

Ongoing Employee Training on AML/CFT Matters (c. 15.3):

406. Reporting entities are required to develop and maintain ongoing employee training on AML/CFT matters (Article 19 (3)). This obligation is drafted in very general terms and does not specify the content and scope of the required training. In particular, it does not establish that it should include information on current ML and TF techniques, methods and trends; all aspects of the AML/CFT Law and obligations; and in particular, the requirements concerning CDD and suspicious transaction reporting.

⁴⁷ See explanation under footnote 25.

Additional Element—Independence of Compliance Officer (c. 15.5):

407. The AML/CFT Law does not address this element.

Application of AML/CFT Measures to Foreign Branches and Subsidiaries (c. 22.1, 22.1.1 and 22.1.2), and Requirement to Inform Home Country Supervisor if Foreign Branches and Subsidiaries are Unable Implement AML/CFT Measures (c. 22.2), and Additional Element—Consistency of CDD Measures at Group Level (c. 22.3):

408. Not applicable. There are no Rwandan banks with foreign branches and subsidiaries abroad.

Implementation and Effectiveness:

409. Meetings with reporting entities across sectors revealed that there are some marked inconsistencies with respect to the scope and coverage of the compliance programs in place. The level of compliance with Article 19 of the AML/CFT Law varied significantly between the various groups of reporting entities: banks with a foreign ownership had basic AML/CFT measures in place; however, securities brokers, *bureaux de change*, microfinance institutions, pension funds, and payment services/system providers had no AML/CFT controls in place. Also, the obligations do not extend to insurance companies and insurance brokers/agents as these are not included in the definition of reporting entities. The main reasons for this lack of compliance can be attributed to the lack of awareness of the AML/CFT Law and its obligations, and the lack of guidance from and supervision by competent authorities. For all these reasons, the preventive measures dealing with internal AML/CFT programs are not effective.

3.8.2 Recommendations and Comments:

410. In order to fully comply with Recommendation 15, the authorities are recommended to do the following:

- Require all reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions, and the reporting obligation;
- Require reporting entities to designate the AML/CFT compliance officer at managerial level;
- Require reporting entities to ensure that the AML/CFT compliance officer and other appropriate staff have timely access to customer information, data and other CDD information, transaction records, and other relevant information;
- Require reporting entities to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies, and controls; and provide them with sufficient details to ensure that the scope of the internal audit function clearly includes AML/CFT audits and an overall assessment of the adequacy of the internal control systems and policies with respect to AML/CFT; and
- Require reporting entities to develop and maintain ongoing employee training on AML/CFT matters, in particular to include information on current ML and FT techniques, methods, and

trends; all aspects of the AML/CFT Law and obligations; and the requirements concerning CDD and suspicious transaction reporting.

411. Although Recommendation 22 is not currently applicable to Rwanda, authorities are also encouraged to set out provisions for reporting entities in the event that foreign branches and subsidiaries are established to ensure that these institutions observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e., host country) laws and regulations permit; to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries that do not or insufficiently apply the FATF Recommendations; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e., host country) laws and regulations permit.

3.8.3 Compliance with Recommendations 15 and 22

	Rating	Summary of factors underlying rating
R.15	PC	<p>Although the AML/CFT Law does require the implementation of some measures to prevent ML and TF, it lacks the necessary level of clarity and detail to be in compliance with the standard. In particular:</p> <ul style="list-style-type: none"> • The requirements for reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions and the reporting obligation are incomplete. • There are incomplete requirements for reporting entities to do the following: <ul style="list-style-type: none"> ▪ Communicate the internal procedures, policies, and controls to prevent ML and FT to their employees. ▪ Designate the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information. • The requirements for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an adequately resourced and independent audit function are incomplete. • There is a lack of implementation of the requirements under this recommendation. • Effectiveness was not established.
R.22	N/A	

3.9. Shell Banks (R.18)

3.9.1 Description and Analysis

Legal Framework:

412. Both the AML/CFT Law and the Banking Law contain provisions to address the conditions of a bank's physical presence in Rwanda.

Prohibition of Establishment Shell Banks (c. 18.1):

413. The Banking Law, under Chapter II, establishes the licensing requirements for banks. In addition, Article 9(1) of the AML/CFT Law requires banks to have a physical presence in Rwanda to be able to operate in the country. It does not, however, define what constitutes "physical presence." Under Article 32 of the Banking Law, bank managers are required to be domiciled in Rwanda. Further licensing requirements (applicable to domestic banks as well as to branches and/or subsidiaries of foreign banks) in the Banking Law preclude the establishment of shell banks. These requirements are covered in detail under Recommendation 23 of this report. As such, the requirements under the Banking Law, together with the requirement under the AML law, seem to effectively preclude the establishment or continued operation of shell banks in Rwanda.

Prohibition of Correspondent Banking with Shell Banks (c. 18.2):

414. Banks are prohibited from having business relationships with banks registered in places where they are not physically present (Article 9(2) of the AML/CFT Law). According to the authorities, the notion of "not physically present" includes instances where a bank has no operation or business in its place of registration. This prohibition would effectively preclude banks from entering into and/or continuing correspondent banking relationships with shell banks.

Requirement to Satisfy Respondent Financial Institutions Prohibit of Use of Accounts by Shell Banks (c. 18.3):

415. There is no requirement on banks to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks. In practice, however, it seems that none of the banks visited during the mission provide correspondent accounts to financial institutions abroad.

Implementation and Effectiveness:

416. Representatives from the banking sector indicated that there are no shell banks established in or operating from Rwanda and no Rwandan banks maintain any correspondent relationships with shell banks. The legal framework for licensing a bank in Rwanda effectively prohibits the establishment or continued operation of shell banks.

3.9.2 Recommendations and Comments

417. In order to fully comply with Recommendation 18, the authorities are recommended to do the following:

- Explicitly require reporting entities to satisfy themselves that when establishing correspondent relationships in the future, their respondent institutions in foreign countries do not permit their accounts to be used by shell banks.

3.9.3 Compliance with Recommendation 18

	Rating	Summary of factors underlying rating
R.18	LC	<ul style="list-style-type: none"> • No requirement for reporting entities to satisfy themselves that their foreign respondents do not permit their accounts to be used by shell banks.

Regulation, supervision, guidance, monitoring and sanctions

3.10. The Supervisory and Oversight System—Competent Authorities and Self-Regulatory Organizations (SROs). Role, Functions, Duties, and Powers (Including Sanctions) (R. 23, 29, 17, and 25)

Legal framework:

418. There are two supervisory authorities responsible for prudential (financial risks) and market conduct supervision, namely the National Bank of Rwanda (BNR) and the Capital Markets Authority (CMA). However, they are not responsible for AML/CFT supervision.⁴⁸

3.10.1 Description and Analysis

Competent authorities—powers and resources: Designation of Competent Authority (c. 23.2); Power for Supervisors to Monitor AML/CFT Requirement (c. 29.1); Authority to conduct AML/CFT Inspections by Supervisors (c. 29.2);

419. According to the authorities, the BNR and CMA's respective remits extend to the monitoring of the financial entities' compliance with any obligations, i.e., including those set out in the AML/CFT Law. However, they were not able to provide the legal basis for this. The AML/CFT Law does not designate or make any reference to the authorities responsible for AML/CFT supervision, and does not cross-refer to any of the sector-specific laws (neither in its preamble, nor in its specific provisions). The sector-specific laws provide the legal framework for the BNR and CMA supervision as set out in the table below, but do not address AML/CFT issues. The powers that they grant the BNR and CMA apply only in the context of the provisions set out in these laws. There is therefore no authority that has been designated to monitor

⁴⁸The BNR and CMA powers in relation to prudential and market conduct matters (and not for AML/CFT purposes) are set out in the following laws:

- Law No. 55/2007 of 30/11/2007 governing the Central Bank of Rwanda—applicable to foreign exchange market, banks, microfinance, insurance companies, social security institutions, collective placement companies, and pension funds institutions.
- Law No. 007/2008 of 08/04/2008 concerning organization of banking—applicable to banks, microfinance, cooperative savings and loans associations, and savings institutions.
- Law No. 40/2008 of 26/08/2008 establishing the organization of microfinance activities—applicable to microfinance institutions.
- Law No. 52/2008 of 10/09/2008 governing the organization of insurance business—applicable to insurers and licensed insurance intermediaries.
- Law No. 03/2010 of 26/02/2010 concerning payment system—applicable to payment system providers.
- Law No. 11/2011 of 18/05/2011 establishing the CMA and determining its mission, powers, organization and functioning—applicable to brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency.

the reporting entities' compliance with AML/CFT obligations. In addition, although the authorities claim that they are responsible for AML/CFT supervision, neither the BNR nor the CMA could demonstrate that they have conducted such supervision in practice. Consequently, AML/CFT supervision does not take place, neither *de jure* nor *de facto*.⁴⁹

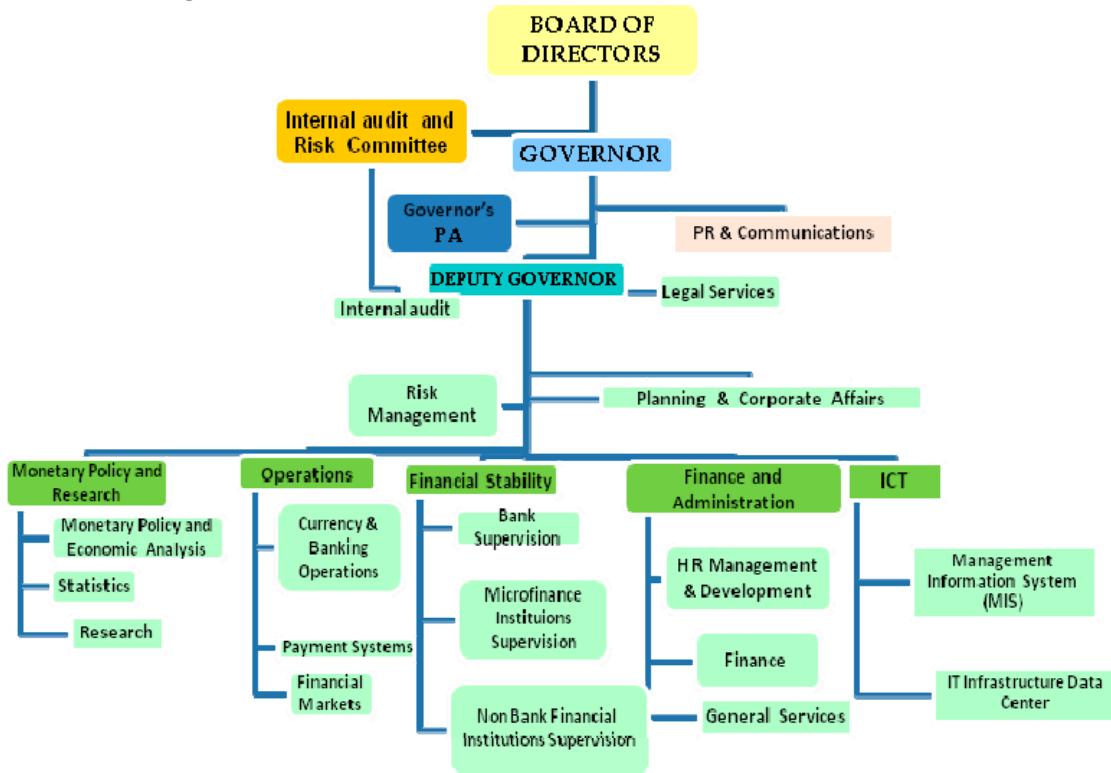
420. The BNR and CMA powers in other areas and their respective organizational charts are indicated below.

National Bank of Rwanda (BNR):

421. The BNR is responsible for regulation and supervision, with respect to financial risks (prudential supervision) of banks, microfinance companies, insurance companies and brokers, pension funds, savings and credit institutions, *bureaux de change*, and payment systems/services providers (which includes money remitters).

422. The BNR's organizational chart below presents the supervisory structure in place at the time of the assessment.

Figure 1. BNR Organizational Chart



Capital Markets Authority (CMA):

⁴⁹Although Article 13 of Presidential Order 27/01 designates the FIU as the supervisory authority for reporting entities without a natural supervisor, this responsibility/power does not extend to making the FIU the designated competent authority for AML/CFT supervision of those reporting entities under the responsibility of the BNR and the CMA.

423. The CMA is responsible for regulation and supervision of securities firms, brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency with respect to market conduct.

Powers to Monitor and Supervise Reporting Entities:

424. Sector-specific laws provide both the BNR and the CMA with powers to monitor and supervise (including conducting inspections of) their respective reporting entities as follows:

Table 5. Powers to Monitor and Supervise Reporting Entities.

Sector specific law:	Powers vested under Article(s):	Sector/Reporting Entity	Areas Supervised:
Central Bank Law (No. 55/2007)	6(2) 6(3) 53	Foreign Exchange Market Banks, Microfinance, Insurance Companies, Social Security Institutions, Collective Placement Companies, and Pension Funds Institutions	Financial/Prudential Risks and access to any documents, information, or necessary justifications for the analysis of the position of the financial institutions.
Banking Law (No. 007/2008)	58 61	Banks, Microfinance, Cooperative Savings and Loans Associations, and Savings Institutions	Financial/Prudential Risks as banks and their branches are required to make their books, minutes, receipts, and other documents available for inspection by the inspectors of the Central Bank.
Microfinance Law (No. 40/2008)	40 35	Microfinance institutions	Financial/Prudential Risks Microfinance institutions should transmit to the Central Bank all financial statements and documents set by the Central Bank regulations and all information requested to assess their financial situation. The powers to access the records, documents, or information relevant to monitoring including policies,

			procedures, books, and records are vested under the Banking Law as stated above.
Insurance Law (No. 52/2008)	54	Insurers, Licensed Insurance Intermediaries	Financial/Prudential Risks including procedures, systems and controls, assets, and examining and making copies of documents related to the business, and any other information or documents specified in the regulations.
Payment System Law (No. 003/2010)	7(3), 8, and 9	Payment system providers	Financial/Prudential Risks and the power to request at any time from the PSP any information, document, clarification, proof and any other. Also the power to appoint auditors or any other persons to carry out inspections of systems, operators and issues of payment instruments.
Capital Market Authority Law (No. 11/2011)	4(9)	Brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency	Market conduct.
Law Regulating Capital Market in Rwanda (No. 01/2011)	36 to 39	Same reporting entities.	CMA is granted the powers to request information from any licensed or approved person, inspect any licensed or approved person with an Order of the Minister, carry out investigations, and entry into the premises of any licensed or approved person. However, there is nothing in the law addressing the

			CMA's powers to access records, documents, or information relevant to monitoring including policies, procedures, books, and records and sample testing.
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425. The authorities also indicated that a draft Pension Law is currently pending in Parliament.

426. As mentioned above, none of the sector-specific laws provide that the respective supervisory powers extend to AML/CFT issues or designate the BNR and the CMA as the competent authorities with responsibility to regulate and supervise their reporting entities for AML/CFT purposes. As also mentioned above, the AML/CFT Law does not designate the AML/CFT supervisor(s). In the absence of a legal basis, the powers vested to the BNR and the CMA under the sector-specific laws may not be used for AML/CFT purposes. Meetings with officials from the BNR's Supervision Departments for banks, microfinance, insurance, pension funds, payment system/services providers, and *bureaux de change* revealed that the BNR supervisory approach for financial/prudential matters was based on risk (complemented with the CAMELS methodology for banks), including for both off- and onsite activities. The authorities provided the assessors with documentation related to supervisory activities in general for both offsite and onsite. A review of this documentation revealed that the BNR Bank Supervision Department's Offsite Surveillance Manual exclusively focused on financial/prudential risks. There was no coverage of surveillance and monitoring activities for AML/CFT purposes. The authorities also provided the assessors with a copy of the BNR's Onsite Inspection Procedures Manual (dated January 2010), which includes several references to AML/CFT. However, the scope of these references with respect to inspection procedures, as contained in the section of the manual addressing the assessment of the "Management" component of CAMELS, was limited to the following activities: (i) determining whether the bank has an effective AML/CFT function, (ii) determining the adequacy of internal audit review of anti-money laundering issues, and (iii) communicating with examiners reviewing other areas to assess the level of compliance with other applicable laws such as AML. These activities are not comprehensive enough to provide the details of what the supervisors are supposed to inspect when assessing the level of compliance of financial institutions with respect to AML/CFT preventive measures. Furthermore, the assessors could not establish the scope or the extent of the onsite inspection work performed as the Bank Supervision Department officials did not provide working papers supporting the AML/CFT activities conducted. The authorities indicated that AML/CFT matters were documented and reported to management only when noncompliance issues and/or violations of law were identified.

427. The BNR authorities, however, were able to provide the following supervisory statistical information during the mission:

Table 6. Financial/Prudential onsite inspections conducted by the BNR (2009–2011)

Reporting Entity Inspected	Total Number of Reporting Entities Licensed and Operating as of the mission date	2009 Inspections Conducted	2010 Inspections Conducted	2011 Inspections Conducted
Bank	15	4	4	7
Microfinance	134	38	44	52
Insurance Companies	13	6	2	5
Pension Funds	1	*	*	*
Bureaux de Change	133	*	1	27
Payment System/Services Providers	*	3	8	14

*Information not provided by the authorities.

428. Although BNR officials indicated that during their onsite inspections AML/CFT matters are covered as part of the financial/prudential inspection, they did not provide the assessors with documentation, including work papers and reports of inspections covering the AML/CFT work performed, to support the scope of their AML/CFT activities.

Adequacy of resources—Supervisory Authorities (R. 30)

429. The table below provides information with respect to the BNR’s supervisory resources available, including for staff and budgetary. However, the authorities were not able to clearly determine or provide a reasonable estimate of the number of supervisors assigned to conduct AML/CFT inspections, thus making an assessment of the adequacy of current resources impossible.

Table 7. Staffing and Budgetary Resources at the BNR

Department	Number of Staff	Annual Budget Allocation (in monetary terms or in percentage of the BNR’s overall budget)
Banking	13	No information provided.
Microfinance	77	No information provided.
Insurance and Pension Funds (NBFIIs)	11	No information provided.
Bureaux de Change	3	No information provided.
Payment System/Services Providers	2	No information provided.

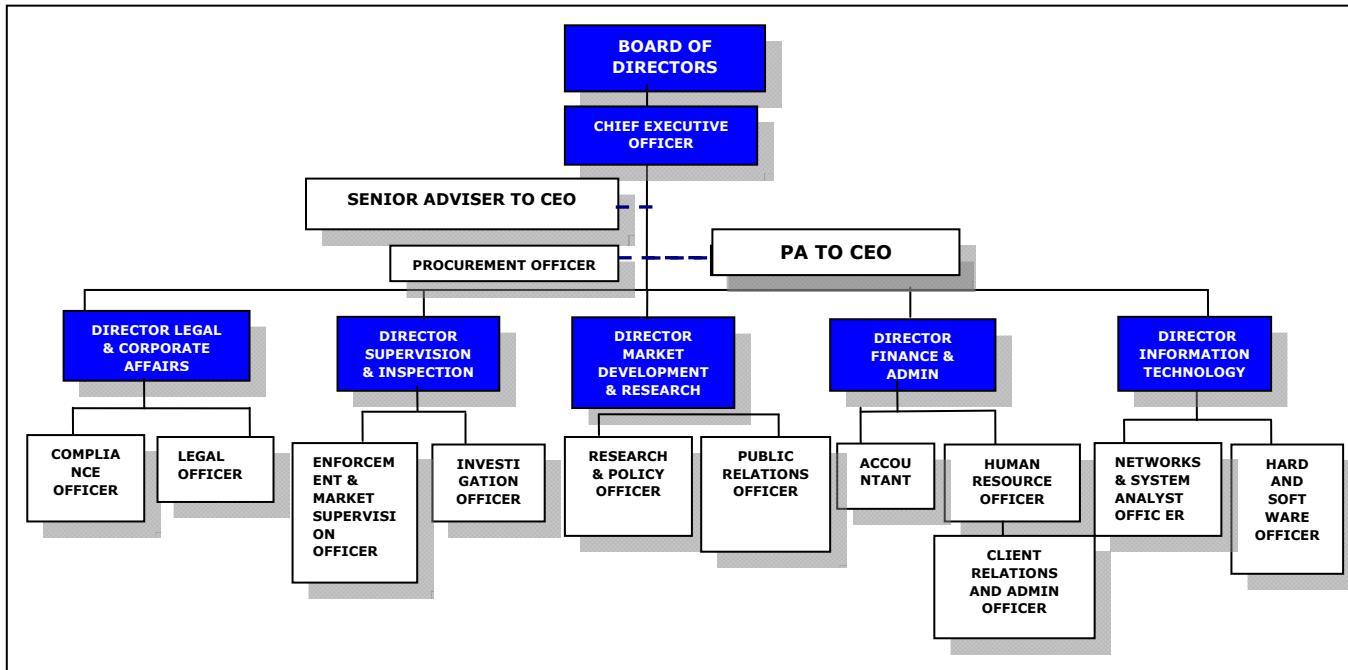
430. With respect to supervisory staff maintaining high professional standards, integrity of the staff, and skills and expertise, the BNR authorities indicated that “each staff of the BNR has signed a pledge of confidentiality.” However, the assessors were not provided with a sample copy of such pledge to confirm the coverage of confidentiality.

431. The authorities indicated that as of the mission date, no specific training related to AML/CFT has been provided to BNR staff.

Capital Markets Authority—(CMA):

432. The CMA's organizational chart below presents the supervisory structure in place at the time of the assessment.

Figure 2. CMA Organizational Chart



433. Meetings with a CMA official revealed that although market conduct inspections have been carried out since the CMA was established in June 2011, to date no AML/CFT inspection has yet been conducted.

Table 8. Staffing and Budgetary Resources at the CMA

Department	Number of Staff	Annual Budget Allocation
CEO Office	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Legal and Corporate Affairs	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Finance and Administration	4	The budget is allocated to the institution and departments get their budget through actions that they perform.
IT	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Market Development and Research	3	The budget is allocated to the institution and departments get their budget through actions that they perform.
Supervision and Inspection	3	The budget is allocated to the institution and departments get their budget through actions that they perform.

434. As in the case of the BNR, it was not possible to assess the adequacy of supervisory resources due to the fact that the authorities did not clearly determine or provide a reasonable estimate of the number of supervisors assigned to conduct AML/CFT inspections.

435. Although the CMA authorities did not share with the assessors a copy of the Administration Manual, they indicated that with respect to professional standards for supervisory staff, Part IV of the manual provides “that all staff shall maintain the highest standard of integrity, conduct and self discipline as required. They shall regulate their private and official activities so as not to discredit the Authority. Penalties may be imposed by the Board and/or the CEO as appropriate, in accordance with the disciplinary procedures of the Manual.”

436. The CMA has not provided training to its staff on AML/CFT matters, but is considering developing the training material.⁵⁰

Power of Supervisors to Monitor AML/CFT Requirements (c.29.1) and Authority to conduct AML/CFT inspections by Supervisors (c.29.2):

437. Monitoring, supervision, and inspections of reporting entities by both the BNR and the CMA are mainly focused towards prudential (financial) matters and market conduct, respectively. The powers vested under the sector-specific laws as described under c.23.2 above are only applicable to prudential and market conduct matters and do not extend to or address AML/CFT matters.

438. The CMA is entitled to request, in the exercise of its functions, information from persons licensed or approved, and to enter any premises occupied by a licensee or approved person (Articles 36 and 37 of the Law 01/2011). The Ministerial Order No. 002/12/10/TC of May 18, 2012, which determines the modalities for conducting inspections and investigations, provides the CMA with adequate powers to decide the scope of and to conduct its supervisory functions.

Power for Supervisors to Compel Production of Records (c. 29.3 and 29.3.1):

439. See c.29.1 above for the legal framework applicable by sector.

Sanctions: Powers of Enforcement and Sanction (c. 29.4); Availability of Effective, Proportionate and Dissuasive Sanctions (c. 17.1); Designation of Authority to Impose Sanctions (c. 17.2); Ability to Sanction Directors and Senior Management of Financial Institutions (c. 17.3); Range of Sanctions—Scope and Proportionality (c. 17.4)

440. Tipping off and failure to comply with the reporting requirements were punishable by 5 to 10 years imprisonment and/or a fine in Article 53, paragraphs 1 and 7 of the AML/CFT Law but these provisions have been repealed by the new Penal Code. Article 54 of the AML/CFT Law enables the “disciplinary and supervisory authority” to sanction other failures to comply with the obligations of the law according to the conditions provided for by the professional and administrative regulations. Although the sector-specific laws provide sanctioning powers to both the BNR and the CMA for violations of the requirements they impose, they do not specifically extend to violations of AML/CFT requirements. It is

⁵⁰After the assessment mission, the CMA Legal and Corporate Manager attended an AML training conducted by a Kenyan firm.

therefore not entirely clear what sanctions would be imposed in this context. In addition, the wording of the law limits the availability of sanctions to cases where it has been demonstrated that the failure was “a result of either a serious lack of vigilance or a shortcoming in the organization of the internal procedures of money laundering prevention.”

441. The BNR has used its powers in very few occasions (see table below), mostly by imposing financial penalties on reporting entities for failure to provide regulatory reports in a timely manner. For the reasons mentioned above, none of these penalties related to noncompliance with AML/CFT requirements. The CMA Law granted the CMA the powers to impose financial penalties. However, as of the mission date, there was no range of sanctions established or sanctions imposed by the CMA.

Market entry: Fit and Proper Criteria and Prevention of Criminals from Controlling Institutions (c. 23.3 and 23.3.1); Licensing or Registration of Value Transfer/Exchange Services (c. 23.5); Licensing of other Financial Institutions (c. 23.7):

442. The BNR is responsible for managing the framework for granting and revoking of licenses for banks, microfinance, insurance companies and brokers, pension funds, savings and credit cooperatives, bureaux de change, and payment system/services providers, as well as changes in control over ownership of these reporting entities. The CMA is responsible for granting and revoking of licenses for brokers, dealers, sponsors, investment advisers, investment banks, investment managers, custodians, securities exchange, clearing house, and credit rating agency.

443. All regulated entities require authorization and a license from the BNR or the CMA to operate in Rwanda. Licensing requirements are covered under the relevant sector law, except for pension schemes.

Table 9. Licensing Requirements Covered Under Relevant Sector Law

Sector	Licensing requirements covered under:	Fit and Proper Criteria	Licensing (Competent) Authority
Banking	Banking Law: Articles, 5 and 6; and Articles 18 to 21 Regulation No. 03/2008: Articles 2 and 3	Banking Law (Art. 5(c)): provides a general statement as follows: “the qualifications and experience of the members of the Board of Directors and management of the future bank are relevant, and that all of these individuals are trustworthy and enjoy an impeccable professional reputation.” Regulation: (Art. 2 and 3) covers fit and proper criteria for substantial shareholders (Appendix 2), proposed directors, and officers (Appendix 4).	BNR

Microfinance	Law No. 40/2008 of 26/08/2008 - Articles 9, 10, 11, 12, 14	Law No. 40/2008 of 26/08/2008 - Article 22, 23	BNR
Insurance	Regulation No. 05/2009 of 29/07/2009 - Articles 6, 7, 38, 43, 44	<p>Regulation No. 05/2009 of 29/07/2009 on licensing requirements and other requirements for carrying out insurance business, Article 8.</p> <p>When determining the fitness and propriety of current and proposed qualifying shareholders, director, and senior management of a licensed insurer, the central bank shall have regard to:</p> <ul style="list-style-type: none"> (a) personal quality relating to his general probity, competence and soundness of judgment, for fulfilling their responsibilities, and diligence with which they fulfill or are likely to fulfill their responsibilities; (b) previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that the person has been declared bankrupt or has been involved as a shareholder, director, or manager of insolvent enterprises; (c) has been convicted of or has been accomplice in any offence involving corruption, fraud, tax evasion, money laundering, other economic and financial crimes, crime against humanity, crime of genocide or terrorism. 	BNR
Pension	Not covered in law or regulation ⁵¹	Not covered in law or regulation ⁵²	BNR

⁵¹The authorities mentioned that, at the time of the assessment, a draft law covering the licensing and the fit-andproper requirements for pensions was pending before Parliament.

Payment System Provider	Regulation No. 006/2012 of 21/06/2012 of the BNR governing payment services providers Regulation No. 05/2010 of 27/12/2010 of the BNR relating to licensing criteria of operating payment and securities settlement systems - Articles 3, 4, 5, 6	Not covered in law or regulation	BNR
Foreign Exchange (Regulation)	Regulation No. 13/2001 - Articles 3, 4, 5, 6, 7	Not covered in law or regulation	BNR
Securities	Regulation No. 01 of 6/06/2012 – Articles 4, 5, 6, 7	<p>a) Regulation No. 01 of 06/06/2012 of the CMA on capital markets (licensing requirements) sets out a list of elements that the CMA should take into account, namely the following:</p> <ul style="list-style-type: none"> • person's honesty, integrity, and reputation (including by looking at past criminal convictions and disciplinary actions, etc.); • person's competence and capability (including by looking at past training, etc.); and • person's financial soundness (including by looking at past bankruptcies). 	CMA

⁵²The authorities mentioned that, at the time of the assessment, a draft law covering the licensing and the fit-and-proper requirements was pending before Parliament.

444. As per the authorities, in addition to the licensing requirements, all owners, directors, and officers are subject to a vetting process for technical competence, solvency, and integrity. The authorities indicated that in the licensing process for PSPs, forex bureaux are covered and that the clearance form from the Prosecution Authority is submitted to address background checks. They also indicated that the only pension scheme is public (owned by the government) and that in this instance the requirements are not applicable.

445. The authorities provided the following statistical information related to their licensing activities:

Statistical Table 5. Licensing Activities

Apps. Rec'd	Banks	MFs	Ins. Agents	Loss adjusters	Ins. brokers	Insurers	Pensions	Bureaux de Change	PSPs
2009	0	0	0	0	0	1	0	12	1
2010	0	13	133	1	6	2	0	15	7
2011	1	372	120	7	7	5	0	26	0
Applications withdrawn									
2009	0	0	0	0	0	0	0	0	0
2010	0	0	0	0	0	0	0	0	0
2011	0	0	0	0	0	0	0	0	0
Applications rejected									
2009		0	0	0	0	0	0	0	0
2010	0	0	0	0	0	0	0	0	0
2011	0	0	0	0	0	0	0	0	0
Applications approved									
2009	0	0	0	0	0	0	0	5	1
2010	0	5	120	0		2	0	10	7
2011	1	157	105	5	5	0	0	15	4
Applications pending									
2009	0	0	0	0	0	1	0	0	0
2010	0	8	13	1	2	0	0	0	0
2011	0	215	15	2	2		0	0	0

Licensing or Registration of Value Transfer/Exchange Services (c. 23.5):

446. Legal persons providing money or value transfer service or a money or currency changing service are subject to the AML/CFT requirements, and subject to the licensing requirements of the BNR. The authorities indicated that there are no natural persons providing money or value transfer or currency changing services in Rwanda as these activities are conducted through legal persons licensed by the BNR.

Licensing of other Financial Institutions (c. 23.7):

447. At the time of the mission, there were no financial institutions in addition to those subject to the Core Principles.

Ongoing supervision: Regulation and Supervision of Financial Institutions (c. 23.1); Application of Prudential Regulations to AML/CFT (c. 23.4); Monitoring and Supervision of Value Transfer/Exchange Services (c. 23.6); AML/CFT Supervision of other Financial Institutions (c. 23.7); Guidelines for Financial Institutions (c. 25.1):

448. Persons and entities that conduct financial sector activities, as defined in the FATF Recommendations, are not subject to AML/CFT supervision in Rwanda, as neither the AML/CFT Law nor the sector-specific laws designate or delegate supervisory responsibility for AML/CFT purposes to a competent authority or authorities. Refer to c. 23.2 for a description of the competent authorities responsible for supervision of reporting entities with respect to financial/prudential risks.

449. With respect reporting entities subject to the Core Principles, the authorities did not provide the mission with documentation to explain whether and how measures applied for prudential purposes that are also relevant for money laundering are applied for AML/CFT purposes.

450. MVTS and *bureaux de change* are subject to supervision under the BNR. However, current supervisory practices/activities do not cover AML/CFT matters.⁵³

451. At the time of the assessment, no feedback or guidelines had been provided to the reporting entities with respect to their AML/CFT obligations.⁵⁴

Implementation and effectiveness:

452. No authority has been designated to conduct AML/CFT supervision. Although the authorities claim that the BNR and CMA are responsible for AML/CFT supervision, they could not establish the legal basis for this supervision and, in practice, neither the BNR nor the CMA has conducted AML/CFT supervision. Because it does not address AML/CFT, the existing supervisory framework appears inadequate to enable the BNR and the MCA to effectively monitor compliance by reporting entities with respect to obligations established by the AML/CFT Law.

453. Although the range of administrative sanctions and powers available to the BNR and the CMA with respect to prudential matters is broad, none of these sanctions and powers target AML/CFT-related matters. Hence, the sanctions and powers are also considered inadequate.

454. There are no measures or mechanisms in place to ensure that CMA supervisory staff maintains high professional standards or legal provisions and sanctions applicable to confidentiality standards. In addition, no training on AML/CFT matters has been provided to staff since the CMA came into existence.

⁵³A new BNR regulation (No. 06/2013 of 21/01/2013 governing forex bureaus) imposes AML/CFT obligations on *bureaux de change*.

⁵⁴The authorities mentioned that the BNR issued, in June 2014, comprehensive guidelines to banks on AML/CFT to provide guidance on the implementation of the AML/CFT Law (see http://www.bnrrw/uploads/media/AML_CFT_GUIDELINES_TO_BANKS.pdf).

3.10.2 Compliance with Recommendations

455. In order to comply with Recommendations 23, 17, 25 and 29, the authorities are recommended to do the following:

Recommendation 23:

- Designate a competent authority or authorities responsible for AML/CFT supervision of the reporting entities;
- Develop, adopt, and implement a formal AML/CFT supervisory framework, including setting out the necessary activities for offsite surveillance and examination procedures for onsite visits; and
- Ensure that, in the course of prudential supervision of financial institutions subject to the Core Principles, supervisors apply for AML/CFT purposes the prudential regulatory and supervisory measures that are also relevant to money laundering.

Recommendation 17:

- Ensure that there is an adequate range of sanctions (administrative, civil, and financial) for noncompliance with the AML/CFT requirements to ensure that these are effective, proportionate, and dissuasive, and that they may be applied without undue limitation; and
- Ensure that the range of sanctions not only applies to legal persons that are financial institutions or businesses but also to their directors and senior management.

Recommendation 25:

- Consider providing guidance to reporting entities on their AML/CFT obligations, using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons, in particular with respect to the reporting of suspicious transactions.

Recommendation 29:

- Ensure that competent authorities such as the BNR and the CMA have adequate powers to monitor and ensure compliance by financial institutions with the requirement to combat money laundering and terrorist financing, including powers to do the following:
 - Conduct inspections to ensure compliance;
 - Compel production of or to obtain access to all records, documents, or information relevant to monitoring compliance; and
 - Enforce and sanction financial institutions and their directors or senior management for failure to comply with or properly implement requirements to combat money laundering and terrorist financing.

3.10.3 Compliance with Recommendations 17, 23, 25, and 29

	Rating	Summary of factors underlying rating
R.17	NC	<ul style="list-style-type: none"> • No sanctioning regime for failure to comply with AML/CFT obligations (i.e., no competent authority), lack of clarity as to the range of available sanctions, and scope limitation of available sanctions.
R.23	NC	<ul style="list-style-type: none"> • No authority or authorities designated for AML/CFT supervision. • Institutions not subject to adequate AML/CFT regulation and supervision. • Lack of fit-and-proper measures for pension, payment service providers, and forex sectors, and application of relevant Core Principles to AML/CFT matters. • Lack of measures to ensure that relevant prudential regulatory and supervisory measures are also applicable for AML/CFT purposes. • Effectiveness was not established.
R.25	NC	<ul style="list-style-type: none"> • Lack of guidelines and guidance on AML/CFT issues provided by the BNR and the CMA to reporting entities.
R.29	NC	<ul style="list-style-type: none"> • Lack of adequate supervisory authority/powers addressing AML/CFT matters across all sectors.

3.11. Money or Value Transfer Services (SR.VI)

3.11.1 Description and Analysis (summary)

456. Money or value transfer systems, known in Rwanda as money remitters, are licensed, regulated, and supervised by the BNR as a category of payment service providers (PSPs). There are two categories of reporting entities that can provide money transfer services: banks and registered money transfer businesses. There are currently 14 registered money transfer businesses. There are also two additional businesses (Western Union and MoneyGram) that operate under an agency agreement with the majority of the banks. These two entities are not licensed by the BNR and are not registered as legal entities in Rwanda. Unlike their agents (i.e., the banks), they are not subject to the requirements imposed by the AML/CFT Law.

Legal Framework:

457. Banks are authorized to transfer money as part of the permitted banking activities (Article 9 of the Banking Law).

458. Registered money transfer businesses (money remitters) are licensed also by the BNR under the law on payment system (Article 7). PSPs cover any entity providing services enabling cash deposits and withdrawals, execution of payment transactions, issuing and/or acquisition of payment instruments, money remittances, and any other services functional to the transfer of money (Article 2 of the law on

payment system). This definition includes some but not all of the elements mentioned in the FATF definition and the Interpretative Note to SR VI.

459. The same law designates the BNR as the competent supervisory authority for money remitters and also vests the BNR with powers to sanction noncompliance with the requirements imposed by this law. However, these powers fall short of including responsibility over AML/CFT matters as well, including for sanctions for noncompliance with the AML/CFT obligations.

Designation of Registration or Licensing Authority (c. VI.1), and Application of FATF Recommendations (applying R.4–11, 13–15 and 21–23, and SRI–IX) (c. VI.2):

460. Under Articles 7 and 8 of the law on payment system, the BNR is responsible for the licensing, regulation, and supervision of PSPs (i.e., money remitters, operating in Rwanda). PSPs are covered by and subject to the obligations imposed by the AML/CFT Law, including for the identification of customers, monitoring of certain transactions, record-keeping, declaration of cash transactions, establishment of compliance programs, and reporting of suspicious transactions to the FIU. However, because the AML/CFT framework applicable to PSPs is the same as the one for banks and other financial institutions, the shortcomings noted under all applicable Recommendations also affect this recommendation.

Monitoring of Value Transfer Service Operators (c. VI.3), and Adequacy of Resources—MVT Registration, Licensing and Supervisory Authority (R.30):

461. The authorities indicated that the main focus of the BNR's supervisory visits to PSPs is on transactions and controls, and not on assessing the level of compliance of these reporting entities with their AML/CFT obligations. PSPs are also required to provide the BNR with regulatory reports on a weekly and monthly basis supporting their activities, as part of the BNR's oversight/surveillance function.

462. The supervisory resources available to oversee compliance with the law on payment system and regulations comprised the head of the supervision department and one other supervisor with responsibility over 14 PSPs (money remitters). Against this background, the resources available appear very low relative to the number of licensed/registered reporting entities, which precludes the BNR's ability to identify potential ML/FT risks within this sector.

463. The authorities did not explain the scope of their surveillance activities or how they supervise the implementation of customer identification and due diligence measures for customers making use of the remittance services provided by both Western Union and MoneyGram.

List of Agents (c. VI.4):

464. There were no obligations in place requiring PSPs to maintain a list of agents. Therefore, the authorities were not able to provide the assessors with a current list of agents operating with the licensed PSPs.

Sanctions (applying c. 17.1-17.4 in R.17) (c. VI.5):

465. The BNR is vested with powers to sanction noncompliance with the requirements under the law on payment system. However, these powers do not extend to compliance with AML/CFT requirements.

Additional Element—Applying Best Practices Paper for SR VI (c. VI.6):

466. The authorities have not yet implemented the measures set out in the Best Practices Paper.

Implementation and Effectiveness:

467. The authorities were not able to coordinate a meeting/visit with a licensed PSP as part of the assessment. Although PSPs are considered reporting entities under the AML/CFT Law and subject to all of the obligations imposed by this law, conversations with supervisory staff of the BNR revealed that the level of awareness of AML/CFT issues within this sector is low. Considering the limited supervisory resources available, the lack of AML/CFT supervision and sanctions imposed for noncompliance, the level of implementation is also considered low.

468. Anecdotal evidence revealed that an informal money/value transfer system appears to be operating within Rwanda. This informal system seems to be directly related to and used by a large group of individuals residing outside Rwanda in neighboring countries. While the BNR did not confirm this information, considering that less than 15 percent of the population has access to financial services and that the Rwandan economy is significantly cash-based, it seems reasonable to assume that individuals residing outside Rwanda frequently transfer money/funds to their families and relatives from their respective countries through channels outside the banking and money remittance sectors.

3.11.2 Recommendations and Comments

469. The authorities are recommended to do the following:

- Address the shortcomings identified in recommendations 4–11, 13–15, and 21–23, and Special Recommendation VII, as applicable to this recommendation; and
- Ensure that informal PSP systems currently operating in Rwanda are registered or licensed, subject to the applicable FATF Recommendations and to adequate monitoring.

3.11.3 Compliance with Special Recommendation VI

	Rating	Summary of factors underlying rating
SR.VI	NC	<ul style="list-style-type: none"> • The shortcomings identified in other recommendations related to CDD, sanctions, supervision, and regulation affect the implementation and effectiveness of this recommendation. • No list of agents maintained by the MVT service operator or provided to the authorities. • No sanctions available for failure to comply with AML/CFT requirements. • Informal money/value transfer system operating in Rwanda without effective monitoring.

4. PREVENTIVE MEASURES—DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS

4.1. Customer Due Diligence and Record-keeping (R.12)

4.1.1 Description and Analysis

470. Pursuant to Article 3 of the AML/CFT Law, the following DNFBPs are subject to the AML/CFT requirements:

- Members of private legal profession when they represent or assist their clients outside of a judicial process;
- Auditors;⁵⁵
- Real estate agents;
- Traders in items of significant value, such as works of art (paintings, masks), as well as precious metals and stones; and
- Owners, directors, and managers of casinos and gaming halls, including the national lottery.

471. Casinos are not “reporting entities” under Article 3 of the AML/CFT Law. Article 11 of the AML/CFT Law does designate the owners, directors, and managers of casinos and gaming halls, including national lotteries, as reporting entities, but this is not sufficient, considering that casinos are not included as such.

472. A number of DNFBPs have specific laws in relation to their professional licensing and operations, though these laws do not contain any additional AML/CFT obligations. Furthermore, no SRO has issued requirements directly in relation to AML and CFT other than the code of ethics that members are to abide by.

473. As of the mission date, trust service providers were not present in Rwanda. A new law regulating the creation of trusts and trustees was passed in March 2013. According to the authorities, the Rwandan financial sector does not provide services with respect to trusts created abroad. Similar services for companies are currently provided by real estate agents, accountants, and lawyers. Going forward, the authorities are recommended to include trust and CSPs as reporting entities and to subject them to the AML/CFT legal framework.

474. The FIU has been designated as the competent supervisory authority with respect to compliance with all AML/CFT obligations for all reporting entities “that are not under any supervisory body” (Article 13 of Presidential Order No. 27/2011 of 05/30/2011). However, it has not been provided with

⁵⁵Article 3 of the AML/CFT Law designates “auditors” as reporting entities. Article 12 of the AML/CFT Law specifies the circumstances where CDD should apply. In this respect, the term “accountants” is used to refer to “auditors” as mentioned under Article 3 of the AML/CFT Law. The authorities informed that the terms “auditors and accountants” are interchangeable under the AML/CFT Law.

powers to impose sanctions and, given its recent designation, the FIU has not yet monitored or supervised the level of compliance of these reporting entities with respect to the obligations imposed by the AML/CFT Law.

Legal Framework:

475. AML/CFT Law, Law 58/2011 (Law governing the gaming activities), *Barreau de Kigali, Reglement D'Ordre interieur, 19/2/1997 Loi N 3/97 Portant creation Du Barreau Au Rwanda*, Presidential Order No. 2/01 designating government officers to serve as notaries, head office and jurisdiction of notarial areas, Presidential Order No. 27/01 determining the organization, functioning and mission of the Financial Investigation Unit. The findings in relation to Recommendation 5, 6, and 8–11 above apply similarly to DNFBPs, except for c. 5.1, which only applies to financial institutions.

CDD Measures for DNFBPs in Set Circumstances (Applying c. 5.1-5.18 in R. 5 to DNFBP) (c. 12.1):

476. The requirement to undertake CDD measures is set forth in Article 10 of the AML/CFT Law, which applies equally to all reporting entities, i.e., the financial institutions and the categories of DNFBPs included under Article 3 of the same law. In order to avoid duplication, this section will briefly outline the requirements, noting any changes or differences that may apply to DNFBPs only.

477. According to Article 12 of the AML/CFT Law, CDD and record-keeping requirements apply to non-financial business and professions in the following circumstances:

- Real estate agents: when they are involved in transactions for their client concerning the buying and selling of real estate;
- Dealers in precious metals and precious stones: when they engage in any cash transaction with a customer equal to or above the threshold, which is (still to be) specified by FIU;
- Lawyers, notaries, other legal professionals, and accountants: when they prepare for or carry out transactions for their client concerning the following activities:
 - buying and selling of real estate;
 - management of client's money, securities, or any other assets ;
 - management of the bank, savings, or securities accounts;
 - organization of contributions for the creation, operation, or management of business companies; and
 - creation, operation, or management of legal persons or arrangements, and buying and selling of business entities.

478. Casinos are not included as reporting entities under Article 3 of the AML/CFT Law. Under Article 11, managers, directors, and owners of casinos and gaming halls are subject to the obligation to (i) demonstrate to the relevant public authorities, from the day of the application for the opening, the lawful origin of the funds necessary for the creation of the enterprise; (ii) confirm the identity, upon presentation

of a valid identity card or any valid original official document, of the players who buy, bring, change chips or game tags for an amount of money superior or equal to the threshold set by the FIU; (iii) record all transactions set forth in the paragraph above; and (iv) record any transfer of funds transacted between casinos and gaming halls.

479. The FIU has not established the applicable threshold for casinos (in the AML/CFT Law “managers/owners and directors of casinos”) and dealers in precious metals and stones. In the absence of a threshold, managers/directors/owners of casinos and dealers in precious metals and stones are not required to identify their clients. This legal loophole, besides the non-designation of casinos as reporting entities, exposes the sector to undue ML/FT risks.

480. Article 10(1) of the AML/CFT Law requires both financial institutions and DNFBPs to identify the customer prior to establishing a business relationship or when they execute an occasional transaction exceeding the threshold set by the FIU. However, in the absence of a threshold, reporting entities are not required to identify the person executing the occasional transaction. This legal loophole, besides the inconsistent implementation among reporting entities, exposes the sector to undue ML/FT risks.

481. Article 10(2) further indicates that the identification of both natural and legal persons must be verified by a valid official identification document.

482. In the case of casinos, directors and owners of casinos and gaming halls must “confirm the identity, on the basis of a valid identity card, or any valid original official document bearing a photograph, of the players who buy, bring, change chips or games tags for an amount that exceeds the threshold set by the FIU” (Article 11(2) of the AML/CFT Law), but as previously mentioned, there is still no threshold in place.

CDD Measures for DNFBPs in Set Circumstances (Applying Criteria under R. 6 and 8-11 to DNFBP) (c.12.2):

483. The requirements concerning PEPs envisaged by Article 16 of the AML/CFT Law are also applicable to DNFBPs. There are no additional laws or regulations issued for DNFBPs on PEPs. The same shortcomings that have been identified with regard to the legal framework for financial institutions are applicable to DNFBPs.

Misuse of New Technology for ML/FT (c. 8.1), and Risk of Non-Face-to-Face Business Relationships (c. 8.2 and 8.2.1):

484. There are no measures that address any of the essential criteria (c. 8.1 to c. 8.2.1) dealing with money laundering threats that may arise from the use of new or developing technologies.

Requirement to Immediately Obtain Certain CDD elements from Third Parties (c. 9.1), Availability of Identification Data from Third Parties (c. 9.2), Regulation and Supervision of Third Party (applying R. 23, 24, and 29, c. 9.3), Adequacy of Application of FATF Recommendations (c. 9.4), and Ultimate Responsibility for CDD (c. 9.5):

485. There are no provisions in line with the requirements of Recommendation 9.

Record-Keeping and Reconstruction of Transaction Records (c. 10.1 and 10.1.1), Record-Keeping for Identification Data, Files and Correspondence (c. 10.2), and Availability of Records to Competent Authorities in a Timely Manner (c. 10.3):

486. As discussed in Section 3 of this report, Article 17 of the AML/CFT Law requires the maintenance of records on transactions, both domestic and international, and the identification data for a period of 10 years, following the end of the business relationship. However, the requirement in place falls short in requiring reporting entities to keep records on transactions for 10 years following completion of the transaction. There are some other deficiencies in the legal framework that are highlighted under Section 3 that apply equally to DNFBPs.

487. The record-keeping obligation for managers, directors, and owners of casinos and gaming halls is addressed specifically under Article 11, which provides that they must record all transactions in “*an appropriate register in a chronological order, including their nature and amount, indicating all names of each player, as well as the number of the presented identification document and preserve this register for five (5) years when the last transaction was recorded.*” In addition, paragraph 4 states that those natural persons are required to record any transfer of funds transacted between casinos and gaming halls in an appropriate register in a chronological order and to preserve this register for five years from the time when the last transaction was recorded.

488. The record-keeping requirement applies to “players,” and does not extend to those circumstances where the customers have purchased, redeemed, and transferred chips without “playing,” which could also be worth considering.

Special Attention to Complex, Unusual Large Transactions (c. 11.1), Special Attention to Complex, Unusual Large Transactions (c. 11.1), and Examination of Complex and Unusual Transactions (c. 11.2):

489. All reporting entities⁵⁶ in Rwanda, under Article 15 of the AML/CFT Law, are required to pay attention to all complex, unusual patterns of transactions, which have no apparent economic or visible lawful purpose. In the same way, reporting entities are required to examine the background and purpose of those transactions. They are also required to establish the findings in writing and to transmit the report to the FIU. There is no requirement for DNFBPs to make findings of the examination of complex and unusual transactions available to competent authorities and auditors.

490. As of the mission date, there were no detailed guidelines or guidance provided to DNFBPs for the detection of unusual transactions.

Implementation and effectiveness:

⁵⁶The English translation of Article 15 of the AML/CFT Law refers to “reporting authorities.” The French version, however, refers to “reporting entities.” The authorities confirmed that the Kinyarwanda version also referred to “reporting entities.” The English terminology is a translation error and the inconsistency in the translations has no bearing on the assessment.

491. The DNFBPs met during the mission were unaware of their obligations under the AML/CFT Law and did not conduct CDD. The casino operating in Rwanda has a player tracking system in place, which allows it to track the buying and selling of chips, but it does not include an identification of the customer.

492. One area of particular concern is the real estate sector, since there is no evidence of implementation of CDD measures, in spite of the many activities conducted for the clients (e.g., opening of bank accounts, assistance to customers in the incorporation of companies at the Rwanda Development Board, and acceptance of cash).

493. None of the DNFBPs visited understand the concept of PEP and treat all transactions and business relationships in the same way.

494. Similarly, DNFBPs do not comply with the record-keeping requirements and do not have systems in place to monitor all complex, unusual large transactions, which have no apparent or visible economic or lawful purpose.

4.1.2 Recommendations and Comments

495. The shortcomings identified under Recommendations 5, 6, and 8 to 11 in Section 3 are equally valid for DNFBPs. The preventive measures applicable to DNFBPs need to be expanded and tailored to the specificities of each business and profession.

496. In addition to the shortcomings identified with regard to the financial sector, authorities are recommended to do the following:

- Address the deficiencies identified under Recommendations 5, 6, and 8 to 11 above;
- Incorporate casinos as reporting entities under the AML/CFT Law;
- Designate the threshold called for by the AML/CFT Law for customer identification by casinos and dealers in precious metals and stones;
- Ensure that DNFBPs are subject to the preventive measures, and record-keeping requirements in line with Recommendations 5, 6, 8, 9, 10, and 11;
- Ensure the effective implementation of the AML/CFT provisions by DNFBPs;
- Develop outreach campaigns specifically to raise awareness of CDD obligations and, more generally, to raise awareness of ML and TF risks in all of the DNBFP sectors; and
- Although trusts services are not provided at the time of the assessment, in view of the upcoming entry in force of a new law allowing for the creation of Rwandan trusts and of the related services that will be provided, it is recommended that the authorities include trust service providers amongst the reporting entities subject to the AML/CFT Law.

4.1.3 Compliance with Recommendation 12

	Rating	Summary of factors relevant to s.4.1 underlying overall rating
R.12	NC	<ul style="list-style-type: none"> • Casinos are not reporting entities under the AML/CFT Law. • No threshold for CDD measures applicable to casinos and dealers in precious metals and stones. • The shortcomings identified in the framework of Recommendations 5, 6, and 10–11 are applicable to designated non-financial business and professions. • No provisions in line with Recommendations 8–9. • Lack of implementation of the preventive measures by DNFBPs. • The effectiveness of the preventive measures to AML/CFT has not been established.

4.2. Suspicious Transaction Reporting (R.16)

4.2.1 Description and Analysis

Legal Framework:

Requirement to Make STRs on ML and FT to FIU (applying c. 13.1 and IV.1 to DNFBPs) STRs Related to Terrorism and its Financing (applying c. 13.2 to DNFBPs) No Reporting Threshold for STRs (applying c. 13.3 and IV.2 to DNFBPs), Making of ML and FT STRs Regardless of Possible Involvement of Fiscal Matters (applying c. 13.4 and c. IV.2 to DNFBPs), and Additional Element-Reporting of All Criminal Acts (applying c. 13.5 to DNFBPs):

497. The reporting requirements set forth under Article 21 of the AML/CFT Law, described under Section 3 above, equally apply to the DNFBPs, except for casinos (company formation services are provided by lawyers, accountants, and real estate agents who are all covered by the AML/CFT regime).⁵⁷ Pursuant Article 21 of the AML/CFT Law, the categories of DNFBPs designated under Article 3 of the AML/CFT Law must immediately report to the FIU “*whenever they have reasonable motives to suspect that the funds or movement of funds are/is linked, associated or destined to be used in money laundering activities or for financing terrorism, terrorism or acts of terrorism or of terrorist organizations.*” They must convey immediately any additional information that may confirm or deny their suspicion. The findings in relation to Recommendation 13 apply similarly to DNFBPs.

⁵⁷Although the English version of the law seems to suggest that, as far as DNFBPs are concerned, only those that are legal persons are required to report suspicious transactions, the Kinyarwanda and French versions apply to both natural and legal persons. The limitation in the English version therefore appears to be an error in translation and therefore has no bearing on the current assessment.

498. The legal framework does not provide for any applicable threshold for the reporting requirement for dealers in precious metals or stones and therefore they are subject to the same reporting requirement as any other reporting entity.

499. Casinos are not required to report suspicious transactions.

500. Pursuant to Article 8 of the AML/CFT Law, “*every reporting entity, control organ or auditor shall respect the condition set forth by this Law, notwithstanding any obligation or professional secrecy or restriction of divulgence of information imposed by any other Law. However, lawyers, notaries and other independent legal professions acting as independent jurists are not required to submit a suspicious transaction report to the Financial Intelligence Unit if the information that they acquired was obtained in circumstances resulting from professional secrecy or legal professional privilege.*” Lawyers are considered as reporting entities when they represent or assist their clients outside of a judicial process in particular with the framework of the following activities:

- Buying and selling properties, trading companies or business;
- Handling of money, securities, and other assets belonging to clients;
- Opening and management of current, savings, or securities accounts; and
- Formation, management, or directing of companies, trusts, or other similar ventures or the execution of any financial transactions (Article 3 of the AML/CFT Law).

501. Information gained while exercising their traditional roles of providing legal advice or representation in litigations is covered by legal professional privilege and, consequently, exempt from the reporting requirements.

502. Lawyers are subject to strict professional secrecy provisions, under the Criminal Code, the law organizing the lawyers’ profession, and internal regulations issued by the Bar Association. According to the authorities, the secrecy provisions in practice do not allow them to comply with the reporting requirement. The scope of professional secrecy is defined under Article 283 of the Criminal Code that states the following: “*Any person serving as a keeper who reveals a professional secrecy entrusted to him/her by virtue of function, occupation or religious authority shall be liable to a term of imprisonment of six (6) months to two (2) years and a fine of one million (1,000,000) to seven million (7,000,000) Rwandan francs or one of these penalties.*”⁵⁸

503. Article 658 (*Penalties for other offences related to money laundering and terrorist financing*) under section 6 states that “... any natural person or legal entity who, in the exercise of its duties of

⁵⁸Organic Law No. 01/2012/OL of 02/05/2012 instituting the Penal Code. Under the old Penal Code, article 214 defined the professional secrecy under the following terms: “*Persons who, by their status or profession, hold information covered by professional secrecy and who-except in cases where they are called upon to give evidence in court or where the law requires them to divulge this confidential information or to denounce it- will have released it, shall be punished by imprisonment from two months to two years and a maximum fine of fifty thousand francs, or one of these penalties. The prohibition to hold public office or employment for up to ten years may also be imposed.*”

managing, supervising or providing advice on deposit, currency exchange, investment or using any other means of transfer of funds or any other property, disregards the rules related to the secrecy of information collected, related to the prohibition to reveal them or communicate them, shall be liable to a term of imprisonment of one (1) year to three (3) years and a fine of five hundred thousand (500,000) to five million (5,000,000) Rwandan francs.”

504. Further, the law regulating the lawyers' profession and the Bar Association's internal regulations have several provisions regarding the professional legal secrecy, among which it is worth highlighting the following ones:

- Article 64 (Law regulating the lawyers' profession): “*The Confidentiality covers everything that has an intimate nature, that the client has a moral or material interest in not revealing when the lawyer learns in the course of his business or his client or the opposing party or counsel, or third parties.*”
- In addition, Article 65 states: “*The privilege covers not only all that is said in the lawyer's office, the correspondence between the lawyer and his client and that exchanged between lawyers of different parties, but also talks and negotiations between councils, both in terms of content that the very fact of their existence, unless the fact of their existence must be found for good cause that the Bar will enjoy.*”
- Article 101 (Internal regulation): “*The Advocate and the entire staff of his office, are strictly bound to respect professional secrecy, which is absolute, and which no one, including the client, cannot be met.*”

505. The legal professional privilege or legal professional secrecy seems to go beyond the information that lawyers, notaries, or other independent legal professionals receive from or obtain through one of their clients (i) in the course of ascertaining the legal position of their client, or (ii) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration, or mediation proceedings, which adversely impacts the effectiveness of the system.

506. Notaries are public officers and are subject to legal professional secrecy according to provisions of the General Statute for Rwanda Public Service. However, the authorities were not able to explain the extent of the legal professional secrecy for notaries and whether, in practice, notaries, as public servants, have anything to report.

Protection for Making STRs (applying c. 14.1 to DNFBPs), Prohibition against Tipping-Off (applying c. 14.2 to DNFBPs), and Additional Element-Confidentiality of Reporting Staff (applying c. 14.3 to DNFBPs):

507. Pursuant to Article 27(3) of the AML/CFT Law, no proceedings for breach of professional secrecy can be brought against those who, in good faith, have transmitted information or submitted STRs to the FIU, even if the investigation or the court orders did not result in any conviction.

508. DNFBPs are prohibited from revealing that an STR has been filed to the same extent as reporting entities.

Establish and Maintain Internal Controls to Prevent ML and FT (applying c. 15.1, 15.1.1 and 15.1.2 to DNFBPs), Independent Audit of Internal Controls to Prevent ML and FT (applying c. 15.2 to DNFBPs), Ongoing Employee Training on AML/CFT Matters (applying c. 15.3 to DNFBPs), Employee Screening Procedures (applying c. 15.4 to DNFBPs), and Additional Element—Independence of Compliance Officer (applying c. 15.5 to DNFBPs):

509. The AML/CFT Law under Article 19 requires all reporting entities to develop AML/CFT policies, procedures, and controls; designate a compliance officer at the management level; establish mechanisms for recruiting staff; and maintain an independent audit function, and an ongoing employee training program. The current requirements are not sufficiently comprehensive to be fully in line with the standards. In particular, they do not establish the type of procedures, policies, and controls required (such as CDD), nor do they address record retention, detection of unusual and suspicious transactions, and the reporting obligation.

510. In addition, there are no obligations on reporting entities to i) communicate the internal procedures, policies, and controls to prevent ML/TF to their employees, and ii) grant the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information. Other shortcomings are as follows: lack of requirement for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an independent and well resourced audit function.

Special Attention to Countries Not Sufficiently Applying FATF Recommendations (c. 21.1 and 21.1.1):

Examinations of Transactions with no Apparent Economic or Visible Lawful Purpose from Countries Not Sufficiently Applying FATF Recommendations (c. 21.2), and Ability to Apply Counter Measures with Regard to Countries Not Sufficiently Applying FATF Recommendations (c. 21.3):

511. The obligation to pay special attention to countries not sufficiently applying the FATF Recommendations is set forth under Article 15(2) of the AML/CFT Law, which applies to all reporting entities subject to the AML/CFT Law. The analysis and findings in Recommendation 21 in relation to the provision set forth in the AML/CFT Law apply equally to DNFBPs and could be summarized as follows: (i) lack of measures to advise reporting entities of concerns about weaknesses in the AML/CFT systems of other countries, (ii) lack of requirements on reporting entities to examine as far as possible the background and purpose of transactions that have no apparent economic or visible lawful purpose, and (iii) lack of counter-measures to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations.

Implementation and effectiveness:

512. The majority of the DNFBPs visited during the mission was not aware of the existence of the AML/CFT Law and of their reporting obligations. So far, no STR has been filed by any category of DNFBP. At the time of the onsite visit, none of the DNFBPs met had internal AML/CFT control procedures and measures in place. Professional secrecy provisions imposed on lawyers and advocates are absolute and are therefore not in line with the standard.

513. Overall, implementation of the AML/CFT measures is very weak, which raises serious concerns about the effectiveness of the regime.

4.2.2 Recommendations and Comments

514. The authorities are recommended to do the following:

- Require casinos to report suspicious transactions to the FIU;
- Ensure that the carve-out for legal and professional secrecy is limited to information (i) obtained in the course of ascertaining the legal position of a client, or (ii) in performing their tasks of defending or representing that client in, or concerning judicial, administrative, arbitration, or mediation proceedings; and
- Ensure that all DNFBPs are subject to and effectively implement the requirements under Rec. 13, 14, 15, and 21.

4.2.3. Compliance with Recommendation 16

	Rating	Summary of factors relevant to s.4.2 underlying overall rating
R.16	NC	<ul style="list-style-type: none"> • Casinos are not subject to the requirements of Rec. 13, 14, 15, and 21. • The shortcomings identified in the framework of Recommendations 13, 14, 15, and 21 are applicable to non-financial business and professions. • Professional secrecy provisions for lawyers and legal professionals pose an impediment to suspicious transactions reporting. • No reporting by DNFBPs. • Effectiveness was not established.

4.3. Regulation, Supervision, and Monitoring (R.24–25)

4.3.1 Description and Analysis

Legal Framework:

515. The current sector-specific laws do not address regulation, supervision, and monitoring of DNFBPs for AML/CFT purposes. In May 2011, the FIU was designated as the authority “required to check if the reporting entities which are not under any supervising body, fulfill the obligations set out in the AML/CFT Law” (Article 13 of the Presidential Order No. 27/01 of May 30, 2011). Since the issuance of this order, all DNFBPs fall within the remit of the FIU’s supervision. However, given the recent designation, the FIU was not yet monitoring or supervising the level of compliance of these reporting entities with respect to the obligations imposed by the AML/CFT Law.

516. Although not directly involved in AML/CFT, the following authorities are also relevant:

- The Rwanda Development Board (RDB): DNFBPs that are legal persons must be registered and incorporated with the RDB. After the registration and incorporation, the RDB issues an operational license to conduct business in Rwanda, which needs to be renewed annually.
- The Ministry of Commerce and Industry (MINICOM), through a competent authority still to be designated, is responsible for the supervision of casinos pursuant to Articles 4 and 5 of the Gaming Activities Law. However, at the time of the assessment, no competent authority had been designated.
- The Rwanda Bar Association: advocates are members of the Rwanda Bar Association.
- Certified Public Accountants of Rwanda (ICPAR): the ICPAR acts as the SRO for accountants and is the only body authorized by law to register and grant practicing certificates to CPAs in Rwanda.

517. There is no sanctioning regime for noncompliance with the AML/CFT obligations for DNFBPs.

Regulation and Supervision of Casinos (c. 24.1, 24.1.1, 24.1.2 and 24.1.3):

518. As mentioned earlier in this section, casinos are not reporting entities; only the “owners, directors and managers of casinos and gaming halls, including national lotteries” are reporting entities under the AML/CFT Law (Article 3(4)e).

519. Law No. 58/2011 governing the Gaming Activities provides under Article 4 that the Ministry of Trade and Industry (MINICOM) should have overall control of the gaming activities. It further states that “a Prime Minister’s Order may determine another gaming regulatory authority, if necessary.”⁵⁹ Although the responsibilities of the regulatory authority appear to be comprehensive, there is no clear and direct responsibility for AML/CFT regulation and supervision of casinos. Also, the powers to sanction are directly related to violations and noncompliance issues related to the Gaming Activities Law and not to noncompliance with the AML/CFT obligations.

⁵⁹Article 5 of the same law describes the responsibilities of the regulatory authority as follows:

- to oversee the gaming industry and all activities related to it;
- to determine the number of licenses that may be granted in the Country, in accordance with the needs;
- to investigate and consider applications for gaming licenses and permits;
- to issue licenses and permits;
- to oversee the Consultative Gaming Committee, to appoint its members to determine its responsibilities, organization, functioning, and competence;
- to conduct investigations to ensure compliance with this Law and issue notices in case of its violation to competent authorities for the purposes of their prosecution;
- to review licenses and activities of their license holders;
- to suspend or revoke any license that is in violation of this Law or when the license holder operates in violation of this Law;
- to ensure that unlawful activities related to lottery schemes, casinos, sport books, wagering and unlicensed gaming activities are prevented or detected and prosecuted; and
- to ensure that undertakings made by license holders are carried out.

520. With respect to licensing requirements and preventing criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino, Article 23 of the Gaming Activities Law provides that an applicant must submit an application for a casino license to the regulatory authority. Once submitted, the regulatory authority must conduct an investigation with respect to probity, technical competence, industry competitiveness of the applicant(s), and any other legal requirements. During the process, the authority should also conduct a hearing with the applicant or it could delegate the task to the Consultative Gaming Committee. In addition, Article 11(1) of the AML/CFT Law states that managers, directors, and owners of casinos and gaming halls must demonstrate to the relevant public authorities, from the day of the application for the opening, the lawful origin of the funds necessary for the creation of the enterprise.

521. The gaming activities law came into effect on March 26, 2012, and, at the time of the assessment, there was no competent regulatory authority designated to oversee, regulate, and supervise casinos.

Monitoring Systems for Other DNFBPs (c. 24.2 and 24.2.1):

522. Real estate agents are not subject to monitoring or oversight by a designated competent authority or self-regulated organization (SRO).

523. In the case of legal professionals, only those that are members (advocates) of the Rwanda Bar Association (SRO) are under some kind of oversight with respect to procedures for admission to the Bar Association, professional standards, training, ethics, and sanctioning measures for noncompliance with the internal rules. However, the Bar Association does not oversee or monitor its members' compliance with their AML/CFT obligations.

524. For accountants, an SRO was established by Law 11/2008 in May 2008. The ICPAR is responsible for registering and granting practitioners a certificate as a CPA in Rwanda. ICPAR is also responsible for regulating the accounting profession, preserving the integrity of the profession, including taking disciplinary measures against its members when unable to perform their duties, and revoking/withdrawing practitioners' licenses in case of misconduct. However, similar to the Bar Association, ICPAR does not oversee or monitor its members with respect to ensuring compliance with the requirements to combat ML and FT, as required by the AML/CFT Law.

525. Traders in items of significant value, precious stones and metal, travel agencies, business of transporting money are not subject to any form of supervision or monitoring.

526. In light of the above, and more specifically of the absence of designated authority in charge of supervision and monitoring for AML/CFT purposes, all DNFBPs active in Rwanda fall under the FIU's supervision in application of Article 13 of the Presidential Order No. 27/01. However, given its recent designation as "supervisor," the FIU has not yet started monitoring or supervising the DNFBPs' level of compliance with the obligations imposed by the AML/CFT Law.

Guidelines for DNFBPs (applying c. 25.1):

527. No guidelines have been issued to assist the DNFBPs to implement and comply with AML/CFT requirements. No feedback has been provided by the FIU to the DNFBPs.

Adequacy of Resources—Supervisory Authorities for DNFBPs (R.30):

528. The FIU has 13 staff in total to perform the entirety of its functions (i.e., those linked to the receipt, analysis, and dissemination of STRs, as well as those related to supervision), which is neither enough nor adequate.

Implementation and effectiveness:

529. Due to its recent establishment, the FIU has not started its supervisory function and DNFBPs remain unsupervised for AML/CFT purposes.

530. Regardless, the current framework for the supervision of DNFBPs does not seem adequate because the FIU has neither the resources nor the expertise to conduct AML/CFT monitoring and supervision. The authorities may wish to consider creating one or several separate supervisors for DNFBPs other than the legal profession. It could be faster and more efficient to implement than the establishment of a specific supervisor for each profession. Provided that the authorities conduct an assessment of the ML/TF risks in the DNFBPs sector, it could also enable a better programming of controls and allocation of resources according to the risks posed by the various DNFBPs. With respect to the legal professionals, the Ministry of Justice should implement a mechanism to enable a more effective supervision of the compliance of advocates with the AML/CFT requirements.

4.3.2 Recommendations and Comments

531. The authorities are recommended to do the following:

- Ensure that the FIU has adequate capacity (in terms of resources and expertise) to conduct its supervisory functions, or reconsider the current framework for supervision of DNFBPs;
- Introduce a sanctioning regime for noncompliance with the AML/CFT obligations applicable to DNFBPs;
- Ensure that the designated competent authorities or SROs responsible for monitoring have adequate powers and resources to perform their functions;
- Increase awareness among all DNFBP categories;
- Provide guidance to assist DNFBPs implement and comply with their respective AML/CFT requirements; and
- Provide feedback to DNFBPs on current techniques, methods, and trends or sanitized examples of actual ML and FT cases.

4.3.3 Compliance with Recommendations 24 and 25 (criteria 25.1, DNFBP)

	Rating	Summary of factors relevant to s.4.3 underlying overall rating
R. 24	NC	<ul style="list-style-type: none"> • The FIU does not have the capacity (both in terms of resources and expertise) to conduct AML/CFT supervision in an adequate manner. • No AML/CFT supervision of DNFBPs.

		<ul style="list-style-type: none"> • No sanctions for non-compliance with the AML/CFT obligations. • Lack of implementation and awareness of AML/CFT obligations.
R.25	NC	<ul style="list-style-type: none"> • No guidance has been issued to assist DNFBPs in the implementation of their AML/CFT obligations. • No (general) feedback has been provided by the FIU.

4.4. Other Non-Financial Businesses and Professions—Modern, Secure Transaction Techniques (R.20)

532. The methodology provides the following examples of businesses or professions to which countries “should consider” applying the FATF Recommendations: dealers in high value and luxury goods, pawnshops, gambling, auction houses, and investment advisers.

533. The authorities did not provide any information about measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering. Neither have they considered the need to impose CDD and/or reporting obligations to businesses, professions, or activities that could generate a significant risk of ML or FT in Rwanda.

4.4.1 Description and Analysis

Legal Framework:

534. Not available.

Other Vulnerable DNFBPs (applying R. 5, 6, 8–11, 13–15, 17, and 21 c. 20.1):

535. The authorities have not yet conducted an assessment of non-financial businesses and professions (other than DNFBPs currently subject to the AML/CFT Law) that could be used or exposed to potential money laundering and terrorist financing risks.

Modernization of Conduct of Financial Transactions (c. 20.2):

536. The authorities did not provide any information about measures taken to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering.

Implementation and Effectiveness:

537. No evidence of measures or steps taken to apply preventive measures to other non-financial businesses and professions that may be vulnerable of misuse for money laundering or terrorist financing purposes or to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to ML. Rwanda’s economy is mainly cash-based. One measure that the authorities could consider is minimizing the reliance on cash and increasing the reliance on more secure means of conducting financial transactions.

4.4.2 Recommendations and Comments

538. The authorities are recommended to do the following:

- Conduct a risk assessment of non-financial businesses and professions (other than DNFBPs) that could be used for or exposed to potential ML and FT activities in Rwanda;
- On the basis of the results of the risk assessment, introduce measures to reduce reliance on cash;
- Apply Recommendations 5, 6, 8-11, 13-15, 17, and 21 to non-financial businesses and professions (other than DNFBPs) that are at risk of being misused for ML and FT, in line with the results of the risk assessment; and
- Encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

4.4.3 Compliance with Recommendation 20

	Rating	Summary of factors underlying rating
R.20	NC	<ul style="list-style-type: none"> • No risk assessment has been conducted in the domestic sector. • No consideration has been given to applying the FATF recommendations to other higher-risk businesses and professions. • No evidence of measures or steps taken to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

5. LEGAL PERSONS AND ARRANGEMENTS AND NON-PROFIT ORGANIZATIONS

5.1. Legal Persons—Access to Beneficial Ownership and Control Information (R.33)

5.1.1 Description and Analysis

539. The types of legal persons that may be established under Rwandan law are the following:

- Companies, regulated by law No. 07/2009 of 27/04/2009 relating to companies (the Companies Law), and of which there are several different types: private company limited by shares, private company limited by guarantees, private company limited by shares and guarantees, private unlimited company, public company limited by shares, and public company limited by shares and guarantees.
- Cooperative organizations, regulated by the law No. 50/2007 providing for the establishment, organization, and functioning of cooperative organizations in Rwanda, and of which there are several different types: production cooperative organizations, commercial and consumer cooperative organizations, services cooperative organizations, and multipurpose cooperative organizations.

- Non-governmental organizations (NGO): NGOs are governed by Law No. 4/2012 and may be categorized in three broad categories, depending on their main objectives and the nature of their membership: public interest organizations (which carry out activities in the development of various sectors), common interest organizations (which act in a specific domain in favor of their members), and foundations (whose purpose is either to establish a fund or to collect funds, and manage and use them to provide beneficiaries with support). The Rwanda Governance Board (RGB) is the competent authority in charge of registering, granting legal personality, and monitoring of the functioning of national and religious non-governmental organizations (Article 16 of the Law of national NGOs, and Article 14 of the Law of Religious NGOs). The Directorate General of Immigration and Emigration is the competent authority in charge of registering and monitoring the international NGOs (Article 6 of the International NGO Law).

540. Associations cannot be established as a separate type of legal person under Rwandan law.

Statistical Table 6. Statistics were provided with respect to companies only

STATISTICS	
1) Limited by shares private	15,546
2) Limited by guarantee private	10
3) Limited by shares and guarantee private	1
4) Unlimited private	4
5) Limited by shares public	60
6) Limited by guarantee public	0
7) Limited by shares and guarantee public	0
8) Unlimited public	0

Table 10. Registered NGOs in Rwanda

TYPE OF ORGANISATION	REGISTERED	IN PROCESS OF REGISTRATION
National NGOs	338	440
Religious NGOs	468	58
International NGOs	156	16
Total	962	514
Grand Total		1476

541. No information was provided as to the number of existing cooperatives established under Rwandan law.

Measures to Prevent Unlawful Use of Legal Persons (c. 33.1):

Companies:

542. Rwanda has a central registration system in place for companies. It is compulsory for all companies wishing to operate in Rwanda to register with the Office of the Registrar General of the Rwanda Development Board. Legal personality can only be obtained after registration, and the registration certificate constitutes proof of incorporation. Pursuant to Articles 14 and 15 of the company law, an application for registration of a company must be sent or delivered to the Registrar General, and accompanied by a memorandum of association and the articles of association, if any. The memorandum

of association must state (i) the name of the company, (ii) the head office of the company, and (iii) the particulars of any business occupation.

543. The memorandum of association of a company with share capital must state the following:

- The amount of share capital;
- The number of shares making the share capital unless where the company is an unlimited company; and
- The full name and the number of shares of every shareholder.

544. For all types of domestic companies, the application form for incorporation also requires the following:

- Company's identification data (company code;⁶⁰ name reservation ID;⁶¹ company name);
- Applicant's position (power of attorney, power of representative, managing director, chairman of the board), name, gender, ID document (national ID card or passport) and its number, date of birth, address, and contact information (telephone and email);
- Head office address and working hours (although it is not clear whether the head office must be in Rwanda);
- Optional: chairman of the board's ID, date of birth, address;
- Managing director, company employee/secretary, members of the board: name, gender, ID document (national ID card or passport) and its number, date of birth, address, contact information (telephone and email);
- Auditor and Accountant: type (person or organization), name, gender, ID document (national ID card or passport) and its number, date of birth, address, company or enterprise's code and registered name and registered office address;
- Business activities (code and name);
- Capital information (type, number, par value, and total value of shares);
- Guarantee type and amount;
- Subscribers: ID information and address;

⁶⁰The company code is the company identification number. It is issued randomly by the IT system and acts as company ID number as well as its Tax Identification Number.

⁶¹The name reservation code applies to companies that have submitted a name reservation application prior to registration.

- Guarantor: ID information, guarantee type and amount;
- Employees: date of hiring first employee and number of employees at the time of registration;
- Amalgamated company code; and
- Signature of all shareholders, as well as copies of their passports or ID cards (Article 2 of the law No. 14/2010 of May 7, 2010 modifying and complementing Law No. 7/2009 of April 27, 2009 relating to companies).

545. The registration form that must be completed for all types of legal persons requires the designation of the managing director of the future company.

546. When the shareholder of a company to be registered is a foreign company, its representatives must provide the same information as foreign companies wishing to establish a branch in Rwanda, namely (i) a duly authenticated copy of the articles of association and the certificate of registration, or any other instrument constituting or defining their incorporation; and (ii) a notarized declaration made by the authorized representatives of the company to take shares in the Rwandan company. Considering, however, that shareholder information is not provided to the registrar, it is unclear how the latter would know whether the company's shareholders are foreign or local.

547. The certificate of registration is issued once the registrar general is satisfied that all legal requirements have been complied with. The certificate is "conclusive evidence" of the incorporation and its date (Article 17 of the company law).

548. The identity of persons involved in the establishment of a legal person is required, but is not really verified by the Office of the Registrar General. The same holds true for other information required. The mechanism put in place by the Rwanda Development Board aims at facilitating the establishment of legal persons and thus simplifying the registration process, rather than establishing who the beneficial owners are.

549. Some elements of the company's status must be kept up to date, but changes in the control structure or in the shareholdings are not required to be reflected in the registrar general. Transfers of shares should be reflected in the register of shares held by the company itself but there is no timeframe for these updates and therefore no measure to ensure that the register is current. Similarly, there are no clear requirements with respect to a directors' register, which would ensure that legal entities collect and maintain up-to-date information on their management and control structure.

550. All information collected by the Office of the Registrar General (either by its headquarters in Kigali or within one of its four branches in the country) is automated: headquarter and branches therefore all have access to the same information.

Cooperative organizations:

551. A cooperative organization that applies for legal personality must submit an application letter to the organ responsible for the development of cooperative organizations (namely the Rwanda Cooperative Agency, the RCA). This letter must then pass through the Mayor of the district who endorses it with his

signature, with copy to the province and the court where the cooperative operates. This letter must be accompanied by the following documents:

- four copies of the by-laws⁶² of the Cooperative Organization bearing the date and the signatures or fingerprints of founding members. Copies of the by-laws of the Cooperative Organizations operating at the district or national level must be certified by an authorized notary. The notary must verify the identity of all members of a cooperative operating at the district or national level, but not those of cooperatives operating at a sector level;
- four copies of the minutes of the Constituent General Assembly meeting of the Cooperative Organization bearing the signatures or fingerprints of all founding members;
- four copies of the list of the members of the Board of Directors and of the Supervisory Committee indicating their names, addresses, functions, and the signature of each person;
- a specimen of the signature or fingerprints of persons authorized to represent their Cooperative Organization before the law; and
- a certificate issued by the district authorities in which the cooperative organization has its headquarters.

552. A cooperative organization that has fully complied with all the provisions of legal registration becomes a body corporate, and, within thirty days from obtaining legal personality, submits all required documents to the Official Gazette Office for the publication of the registration certificate in the Official Gazette of the Republic of Rwanda (Article 25 of the same law).

NGOs and INGOs:

553. A registration certificate is required before NGOs start their activities in Rwanda, except for common interests organizations and foundations, which may start their activities and strive to comply with the registration requirement within two years (and remain under monitoring in the meantime).

554. During the registration process, the RGB ensures that national and religious NGOs submit copies of their activity and the financial reports for the previous year. These organizations must also notify the

⁶²The by-laws must include the following information: (i) the name of the cooperative organization, which shall not be similar to any other name of another cooperative organization operating in Rwanda, and which was granted legal personality. The name must include the word “cooperative”; (ii) the type of social and economic activities to be undertaken; (iii) the registered office and its full address; (iv) the corporate objectives or its purpose; (v) requirements for the members who share subscription; (vi) the value and number of nominal share per member; (vii) requirements for each nominal share value; (viii) members’ rights and obligations; (ix) criteria and condition for members’ withdrawal or expulsion; (x) modalities for keeping books and other records; (xi) modalities for convening meetings of the organs of the cooperative organization and the regional meetings; (xii) composition of the Board of Directors and criteria for the eligibility; (xiii) composition of the supervisory committee and criteria for the eligibility of its members; (xiv) condition of the voluntary dissolution or liquidation; (xv) procedures for amending the bylaws; (xvi) criteria by which the Board of Directors may authorize the transfer of nominal shares; (xvii) the modalities of management and the use of the property of the cooperative organizations; and (xviii) any other relevant business that may facilitate the achievement of the objectives of the cooperative organization.

RGB of any changes concerning the states, the legal representative, the head office, and harmonization of its functions with the legislation. (Article 29 of the NGO Law and Article 29 and 32 of the RBO Law). The following requirements also apply:

- NGOs: the statutes of the NGO must provide (i) the name of the organization, (ii) the mission and activities of the organization, (iii) the organ and mechanisms of conflict resolution, (iv) the criteria and procedures for adhesion or loss of membership, (v) the organ in charge of administration and financial audit, (vi) the hierarchy of organs and competence in taking decisions, and (vii) the property disposal in the case of dissolution of the organization (Article 6 of the Law for national NGOs).
- Religious NGOs must provide information regarding their name, mission, area of activities, and the beneficiaries; organizational structure, competence and duties of the organs; criteria for being a leader and loss of leadership; administrative and financial audit organs; organ for and mechanisms of conflict resolution; and the property disposal in case of dissolution of the religious-based organization (Article 16 of the law governing religious NGOs).
- INGOs must provide an authenticated copy of the statutes of the organization, an official document allowing the organization to operate in the country of origin and indicating its geographical establishment throughout the world if any, the nature of the activities in which the organization intends to engage in and an action plan, and the budget and its source (Article 7 of the international NGO law).

555. All NGOs have to present the information determined above when they apply for the registration. The distribution of information is done in accordance with national laws relating to access to information.

556. Overall, while basic information on a legal entity at the time of its incorporation is collected and easily available to competent authorities, beneficial ownership information is not really obtained, verified, and maintained, either at the Office of the Registrar General or the RGB, and there is no indication that this information would be otherwise available (for example through the tax authorities or through trust and company service providers).

Access to Information on Beneficial Owners of Legal Persons (c. 33.2):

557. Competent authorities have online access to all information contained in the Central Registrar and may request additional information from the company itself. However, neither the Office of the General Registrar and RGB nor the legal person is required to gather and maintain current and up-to-date information on the beneficial ownership of the legal person.

Prevention of Misuse of Bearer Shares (c. 33.3):

558. Shares may not be issued in bearer form; Article 15 of the Company Law explicitly requires them to be nominative.

Additional Element—Access to Information on Beneficial Owners of Legal Persons by Financial Institutions (c. 33.4):

559. All the information contained in the database of the Office of the Central Register is available online and accessible by financial institutions but does not include information on a company's beneficial owners—only the original shareholdings.

Implementation and effectiveness:

560. The authorities have made great progress in streamlining the process for the creation of legal persons and establishing a modern central registration system that is easily accessible by the competent authorities and the public at large. The information contained in the Central Register is, however, relatively limited and is not kept up to date. In particular, it does not aim at establishing the control structure or the beneficial ownership of the legal person. While competent authorities may request additional information from the company itself, that information is not necessarily current and does not identify the natural person who ultimately owns or controls the legal person.

561. No precise information was provided on the type of activities usually conducted by Rwandan legal entities but it would appear that most of the companies limited by private shares (which are the most frequent form of legal person in Rwanda) mainly operate businesses (the size of which is unclear) and that there are generally no or few asset management vehicles.

5.1.2 Recommendations and Comments

562. In order to fully comply with Recommendation 33, it is recommended that the authorities do the following:

- Take additional steps to prevent the misuse of legal persons established in Rwanda by ensuring that there is adequate transparency concerning their beneficial ownership and control.

5.1.3 Compliance with Recommendation 33

	Rating	Summary of factors underlying rating
R.33	PC	<ul style="list-style-type: none"> • Information collected at the time of incorporation is easily accessible, but it is not kept up to date and does not specifically address the beneficial ownership.

5.2. Legal Arrangements—Access to Beneficial Ownership and Control Information (R.34)

5.2.1 Description and Analysis

Legal Framework:

563. The current legal framework does not allow for the establishment of legal arrangements such as the common law “trust,” and there is no indication that the private sector is holding or otherwise dealing

with assets of foreign “trusts.” The Rwandan authorities indicated, however, that they are working on draft legislation that will allow for the creation of Rwandan trusts.⁶³

Measures to Prevent Unlawful Use of Legal Arrangements (c. 34.1) and Access to Information on Beneficial Owners of Legal Arrangements (c. 34.2):

564. No measures have currently been taken to prevent the potential misuse of legal arrangements, collect information on their beneficial owners, and ensure the competent authorities’ access to that information.

Additional Element—Access to Information on Beneficial Owners of Legal Arrangements by Financial Institutions (c. 34.3):

Implementation and effectiveness:

565. The fact that a law on the creation of Rwandan trusts is being prepared would normally suggest that there is an existing business need for the regulation of trusts and some familiarity in the private sector with foreign trusts. However, nothing suggests that this is the case in Rwanda and no rationale was provided for the new law. Representatives of the private sector and of the authorities seemed unfamiliar with the notion of trusts and other similar forms of legal arrangements, and the assessment team saw no evidence of the use of foreign trusts in Rwanda. In these circumstances, Recommendation 34 does not appear to be applicable at the time of this assessment.

5.2.2 Recommendations and Comments

566. Despite the fact that this Recommendation is considered to be nonapplicable to Rwanda at the time of this assessment, in light of the upcoming entry into force of a new law allowing for the creation of Rwanda trusts, it is recommended that the authorities take all necessary steps to prevent the misuse of the Rwandan trust for money laundering or terrorist financing purposes, and ensure that adequate, accurate, and timely information on these trusts (including information on the settler, trustee, and beneficiaries) can be obtained by competent authorities in a timely fashion, and to facilitate access to that information by reporting entities. The authorities are in particular recommended to consider the examples provided in the FATF methodology.

5.2.3 Compliance with Recommendations 34

	Rating	Summary of factors underlying rating
R.34	N/A	

⁶³Law No. 20/2013 of March 25, 2013 regulating the creation of trusts and trustees came into force more than two months after the assessment team’s onsite visit and therefore has no bearing on this assessment. The law defines a trust as “a fund created in writing as a result of mutual undertaking by any person or a person obliged to fulfill any obligation where the property owner transfers his/her property to a trustee for the benefit of the beneficiary or beneficiaries for a specified period or a specific purpose.” It also provides that the “trustee must properly manage such property in accordance with the trust instrument concluded with the property owner.”

5.3. Nonprofit Organizations (SR.VIII)

5.3.1 Description and Analysis

Legal Framework:

567. There are three different laws regulating NPOs in Rwanda:

- Law N°04/2012 of 17/02/2012 governing the organization and the functioning of the national nongovernmental organizations (hereinafter Law on National NGOs);
- Law N°05/2012 of 17/02/2012 governing the organization and functioning of international nongovernmental organizations (hereinafter Law on International NGOs); and
- Law N°06/2012 of 17/02/2012 determining organization and functioning of religious-based organizations (hereinafter Law on religious NGOs).⁶⁴

568. The AML/CFT Law requires NPOs to report suspicious transactions (please refer to information under Rec. 13 for more details).

569. The national nongovernmental organizations are classified into three broad categories in respect of their main objectives and nature of membership:

- Public interest organizations: organizations serving public interests. The organizations carry out activities in the development of various sectors including civil society, economy, social welfare, culture, science, and human rights;
- Common interest organizations: organizations that act in a specific domain in favor of their members; and
- Foundation: an organization whose purpose is either to establish a fund or to collect funds, manage and use them to provide beneficiaries with support.

Review of Adequacy of Laws and Regulations of NPOs (c. VIII.1):

570. In light of international developments in this area, the authorities reviewed the domestic legislation on NPOs and issued the three laws mentioned above in April 2012. According to the laws, the RGB is the competent authority in charge of registering, granting legal personality, and monitoring of the functioning of national and religious NGOs (Article 16 of the Law of National NGOs, and Article 14 of the Law of Religious NGOs). The Directorate General of Immigration at the Ministry of Internal Security (MIS), the former regulator of NGOs, continues to register and supervise the international NGOs (Article 6 of the International NGO Law). The information on national NGOs registered under the old regime in accordance with the NGO Law of 2000 was migrated from the Ministry of Justice to the RGB. Implementing regulations that relate to the NPOs have not been issued yet.

⁶⁴These laws replaced the Law of 26/07/2000 LAN° 20/2000 relating to NPOs.

571. The RGB and the MIS did not use all sources of available information to undertake a domestic review on the activities, size, and other relevant features of the NPO sector for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics.

572. The monitoring agencies are in the process of re-registering the existing NGOs operating in Rwanda. Fifty out of 100 national NGOs were registered in accordance with the requirements under the new law. The remaining NGOs were asked to present the proper documentation for registration with a notice of termination of activities if they do not do so within the coming months.

Outreach to the NPO Sector to Protect it from Terrorist Financing Abuse (c. VIII.2):

573. Information is provided during the registration about the legislative requirements, and additional awareness campaigns on issues related to the management and activities of NGOs are regularly made. However, the RGB and the MIS did not conduct an outreach campaign to raise the awareness of NPOs about the risks of terrorist abuse and the available measures to protect the sector.

Supervision or Monitoring of NPOs that Account for Significant Share of the Sector's Resources or International Activities (c. VIII.3):

574. National and religious NGOs: For the purpose of promoting transparency and accountability, the supervision of national NGOs must be conducted by the RGB. The RGB may determine necessary administrative entities to assist it in conducting the supervision (Article 30 of the Law on national and religious NGOs). The RGB must ensure that the NGO (i) submits a copy of its activity and financial report for the previous year in accordance with pre-set conditions (that were not determined yet), and (ii) notifies it with changes concerning the states, the legal representative, the head office and harmonization of its functions with the legislation. (Article 29 of the Law of religious NGOs). The same requirements apply to religious NGOs (Article 29 and 32 of the Law of religious NGOs).

575. International NGOs: International NGOs are subject to different requirements. The Ministry (MIS) could, pursuant to Article 22 of the law, request the NGO to conduct and submit an internal audit on its activities and finances within the 90 days from the date of the request. Such audits are conducted regularly to determine the activities the NGOs are engaged in and to collect information about the source of the funds, management, and intended use.

576. At the time of the onsite mission, the RGB was not supervising the activities of the NGOs. The newly formed agency was still in the process of registering the local and religious NGOs conducting activities under the old law of 2000. Under Article 38 of the law of 2000, the MIS used to conduct the monitoring and evaluation of all NPOs in accordance with the article by asking at any time any organization to give it within a one-month period all data and documents concerning its activities. The recently adopted laws provide the RGB and MIS the powers to monitor NPOs, which account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities. However, the concerned agencies are not yet doing that in a comprehensive way.

Information maintained by NPOs and availability to the public thereof (c. VIII.3.1):

577. Pursuant to Article 6 of the Law for national NGOs, the statutes of the NGO must particularly provide the following information: (i) the name of the organization, (ii) the mission and activities of the organization, (iii) the organ and mechanisms of conflict resolution, (iv) the criteria and procedures for adhesion or loss of membership, (v) the organ in charge of administration and financial audit, (vi) the hierarchy of organs and competence in taking decisions, and (vii) the property disposal in the case of dissolution of the organization.

578. The religious NGOs are obliged under Article 16 of the Law of religious NGOs to provide information regarding its name, mission, area of activities and the beneficiaries, organizational structure, competence and duties of the organs, criteria for being a leader and loss of leadership, administrative and financial audit organs, organ for and mechanisms of conflict resolution, and the property disposal in case of dissolution of the religious-based organization.

579. Pursuant to Article 7 of the Law of international NGOs and for an international NPO to be registered, the applicant must present the following: an authenticated copy of the statutes of the organization; an official document allowing the organization to operate in the country of origin and indicating its geographical establishment throughout the world, if any; the nature of the activities in which the organization intends to engage in and an action plan; and the budget and its source. An order of the minister in charge of international non-governmental organizations may determine additional requirements for registration of international non-governmental organizations.

580. All NGOs have to present the information determined above when they apply for the registration. However, the laws do not contain specific obligations to publicly maintain this information and those related to the identity of person(s) who own, control, or direct their activities, including senior officers and board members or to make it available through appropriate authorities.

Measures in place to sanction violations of oversight rules by NPOs (c. VIII.3.2):

581. The laws provide sanctions against the different kinds of NGOs. The Law for national NGOs allows the RGB to send a warning (Article 31), suspend it temporarily (Article 32), suspend it (Article 33), or dissolve it (Articles 34 to 36). Similarly, the law for religious NGOs allows the RGB to impose the same sanctions (Articles 33 to 37). The law for international NGOs allows the MIS to send a warning (Article 24), suspend temporarily (Article 26), enact a final suspension (Article 27), or close it down (Article 28).

582. Confiscation of the NPOs' property is also available under Article 51 of the Penal Code.

Licensing or registration of NPOs and availability of this information (c. VIII.3.3):

583. When the NGOs provide the information mentioned under VIII.3.1 above, the RGB or DGIE issue a temporary certificate of registration that is valid for a period of 12 months. NGOs should apply for legal personality nine months after the issue of the temporary certificate (Articles 17 of the law 04/2012 governing NGOs and 15 of the law 06/2012 governing RBOs).

584. The applicant for a temporary certificate of registration for a religious and national NGO must apply in writing to the RGB. The application letter should be accompanied by the authenticated statutes; the head office and full address of the organization; the name of the legal representative of the

organization, the name of his/her deputy, their duties, full address, curriculum vitae as well as their judicial records; and the minutes of the general assembly that appointed the legal representative of the organization and the signatures of all the members that attended such a general assembly meeting. The international NGOs are not under the requirements of pre-certification for one year. The certification is issued immediately upon approval of the DGIE.

585. According to the Law on national NGOs, the common interest organizations and foundations may start operating before they are registered. Pre-registration period shall not exceed two years. During pre-registration period, such organizations and foundations shall introduce themselves to the administrative entities whose ambit covers their operating area.

Maintenance of records by NPOs, and availability to appropriate authorities (c. VIII. 3.4):

586. As mentioned above, the RGB can require national and religious NGOs to submit a copy of their activity and financial report for the previous year in accordance with pre-set conditions (that were not yet determined). The DGIE can also request the international NGOs to conduct and submit an internal audit on its activities and finances within the ninety days from the date of the request. However, the laws do not contain a clear requirement for NPOs to maintain records for a period of at least five years and to make such records available to appropriate authorities, or an obligation for records of domestic and international transactions having to be sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization.

Measures to ensure effective investigation and gathering of information (c. VIII.4); Domestic cooperation, coordination and information sharing on NPOs (c. VIII.4.1); Access to information on administration and management of NPOs during investigations (c. VIII.4.2); Sharing of information, preventative actions and investigative expertise and capability, with respect to NPOs suspected of being exploited for terrorist financing purposes (c. VIII.4.3):

587. The RGB and DGIE are entitled to share the information relevant to all NPOs, although it is not clear whether they can do so both spontaneously and upon request. The MIS also coordinates the monitoring of international NGOs with LEAs. The coordination between the RGB, DGIE, and LEAs is not effective enough to allow information-sharing, coordination, and cooperation.

588. LEAs have appropriate powers to obtain information on the administration and management of a particular NPO during the course of an investigation. However, this information is not accurate or complete because not all the required information (i.e., financial information) is collected during the registration process, and is only updated upon request of the monitoring agencies.

589. Finally, the authorities did not develop and implement effective mechanisms for the prompt sharing of information among all relevant competent authorities in order to take preventative or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is being exploited for TF purposes or is a front organization for terrorist fundraising. Furthermore, the LEAs do not have sufficient investigative expertise and capacity to promptly examine those NPOs that are suspected of FT or being exploited for this purpose.

Responding to international requests regarding NPOs—points of contact and procedures (c. VIII.5):

590. The authorities have designated the DGIE (international NGOs) and the RGB (national and religious NGOs) as the points of contact for international requests for information about an NPO suspected of TF or other forms of terrorist support.

Implementation and effectiveness:

591. Currently, there are 338 national NGOs, 468 religious NGOs, and 156 INGOs registered in Rwanda.

592. The new legislation entered into force shortly before the assessment and had not been fully implemented. Their implementing regulations have not been issued yet. These laws governing the work of NPOs appear to have contributed to an increase in transparency. Nevertheless, there are certain loopholes in the laws that should be complemented by the implementing regulations. Not all the information required by the standard is collected at the registration level. The RGB and the DGIE are not effectively conducting monitoring of national, religious, and international NGOs. The relevant information is not required to be kept for five years, and there are no effective mechanisms between competent authorities to share relevant information and conduct prompt investigations.

5.3.2 Recommendations and Comments

593. The authorities are recommended to do the following:

- Use all sources of available information to undertake a domestic review on the NPOs' activities, size, and other relevant features of the NPO sector for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics;
- Conduct outreach programs focused on raising awareness on the risks of terrorist abuse and the measures available to protect against such abuses, directed to the entire NPO sector;
- Effectively monitor those NPOs, which account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities;
- Require NPOs to maintain information related to the identity of person(s) who own, control, or direct their activities, including senior officers and board members, or to make it available through appropriate authorities and make such information as well as information on the NPOs' purpose and stated activities and objectives publicly available;
- Review the NPO legislation to require NPOs to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization; and
- Put in place effective mechanisms to share relevant information, target, and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.

5.3.3 Compliance with Special Recommendation VIII

	Rating	Summary of factors underlying rating
SR.VIII	PC	<ul style="list-style-type: none"> • No review on the NPO sector has been conducted and lack of outreach to the NPO sector on the risks of TF. • Insufficient supervision/monitoring of the NPO sector (mostly domestic NGOs) that account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities; • Lack of requirement to maintain relevant information and make it available publicly and to appropriate authorities. • No requirement to maintain certain records required under SRVIII for a period of five years. • Lack of effective mechanisms to share relevant information and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.

6. NATIONAL AND INTERNATIONAL COOPERATION

6.1. National Cooperation and Coordination (R.31 and R.32)

6.1.1 Description and Analysis

Legal Framework:

594. Domestic coordination is not addressed in the laws and regulations of Rwanda.

Mechanisms for Domestic Cooperation and Coordination in AML/CFT (c. 31.1):

595. There is no effective mechanism to enable the policy makers, law enforcement and supervisors, and other competent authorities to cooperate, and where appropriate, coordinate domestically the development and implementation of AML/CFT policies and activities.

596. The Advisory Board of the FIU brings together several competent authorities, and, as such, could be used to ensure some level of domestic cooperation, but its main task is to support the FIU rather than Rwanda's broader AML/CFT efforts.⁶⁵ Moreover, while its original composition was relatively broad, it

⁶⁵The responsibilities of the Advisory Board are set in Article 13 of the FIU Presidential Decree: In addition to advising the FIU on its core functions, the responsibilities consist of (i) proposing measures aimed at enabling the Unit to fulfill its mission (ii) updating the legislation relating to the fight against money laundering and financing of terrorism, (iii) establishing internal rules and regulations of the Unit, (iv) proposing agreements with foreign FIUs, (v) monitoring and evaluating achievements in the Unit in order to assess the adequacy of existing measures or to modify them wherever necessary, and (vi) providing a quarterly (or at any time deemed necessary) report to the minister in charge of internal security.

(continued)

was recently limited without any clear explanation or justification.⁶⁶ It is now chaired by the Governor of the BNR, and comprises the Prosecutor General (Deputy Chairperson), the head of the Investigation Department in the Rwanda Defense Forces, two representatives of the RNP (the Commissioners of Intelligence and of Criminal Investigation, respectively), the Commissioner General of Rwanda Revenue Authority, and the Chief of External Security of the National Intelligence and Security Service. Representatives from the Office of Ombudsman, MFA, and the MOCI are no longer part of the Advisory Board. (Additional information on the Advisory Board can be found under Recommendation 26.)

Bilateral Cooperation amongst competent authorities:

597. FIU–LEAs cooperation: As mentioned under Recommendation 26 above, the FIU has access to a number of databases and uses its investigation powers to gather the necessary information to promptly undertake its functions. The FIU does not receive feedback from LEAs on trends, methodologies, and typologies developed by relevant LEAs. According to the authorities, regular meetings are organized between the FIU and LEAs to exchange information. Other regular quarterly meetings are organized to discuss policy issues.

598. Cooperation amongst LEAs: The assessment team met with several divisions involved in fighting financial crimes at the RNP. There are already some forms of cooperation and coordination attempts present in the law enforcement area, together with a degree of interaction between the FIU and the RNP. The FIU and the customs adopted a practice of cooperation in the interception of suspicious cross-border cash movements. However, there are no effective mechanisms for coordination amongst LEAs to ensure the sharing of information between them on predicate crimes and ML offenses.⁶⁷

599. FIU–supervisory authorities cooperation: The supervisory bodies and the FIU do not exchange information related to their AML and CFT activities. The supervisory authorities do not inform the FIU about the reporting entities' compliance with the AML/CFT Law (i.e., inspection results), and the FIU does not provide the supervisory authorities with information resulting from the analysis of STRs and other information.

600. Cooperation amongst supervisory authorities: Finally, there is no mechanism allowing the cooperation between supervisory agencies of FIs and DNFBPs, notably, BNR, MOJ, and MOCI.

Additional Element—Mechanisms for Consultation Between Competent Authorities and Regulated Institutions (c. 31.2):

601. There is no mechanism in place for consultation between competent authorities, the financial sector, and other sectors (i.e., DNFBPs, NPOs) that are subject to AML/CFT legislation.

⁶⁶Prime Minister's Order No.180/03 of 09/12/2011

⁶⁷The authorities indicated after assessment that cooperation takes place in a forum called Joint Operation Centre (JOC) where security organs and law enforcement agencies meet and share information about security and crimes. They mentioned that the JOC meets regularly since 2011. Because this information was not provided during the onsite mission, the assessors could not discuss with the various members of the JOC and establish the extent to which it addresses ML and TF.

Effectiveness of the AML/CT system (c.32.1):

602. Rwanda did not review the effectiveness of its AML/CFT system.

Implementation and Effectiveness:

603. In the absence of a clear coordination mechanism, the Rwandan authorities communicate on a bilateral basis, but this communication is sporadic and, ultimately, not as effective as it could and should be.

604. The competent authorities do not maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT system.

6.1.2 Recommendations and Comments

605. The authorities are recommended to do the following:

- Put in place effective mechanisms between policy makers, the FIU, LEAs, and supervisors that will enable them to cooperate and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and TF;
- Ensure that the FIU, LEAs, and supervisory authorities effectively exchange information on AML/CFT issues;
- Develop comprehensive statistics in the relevant areas of the fight against ML and TF (including statistics on domestic investigations; prosecutions; property frozen, seized and confiscated; convictions; and international cooperation, etc.); and
- Review the effectiveness of the AML/CFT system on a regular basis.

6.1.3 Compliance with Recommendation 31

	Rating	Summary of factors underlying rating
R.31	NC	<ul style="list-style-type: none"> • Lack of a mechanism to ensure cooperation amongst all relevant authorities and coordination of the development and implementation of AML/CFT policies and activities. • No bilateral exchange of information between the FIU, LEAs, and supervisory authorities.
R.32	NC	<ul style="list-style-type: none"> • Lack of collection of detailed statistics on matters relevant to the effectiveness and efficiency of the AML/CFT regime. • No review of the effectiveness of the AML/CFT system on a regular basis.

6.2. The Conventions and UN Special Resolutions (R.35 and SR.I)

6.2.1 Description and Analysis

Legal Framework:

Ratification of AML-Related UN Conventions (c. 35.1) and Ratification of CFT-Related UN Conventions (c. I.1):

606. Rwanda is party to all the relevant conventions under the standard: It acceded to the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) on May 12, 2012; it signed and ratified the 2000 Convention against Transnational Organized Crime (the Palermo Convention) on December 14, 2000 and September 26, 2003, respectively; and it signed the 1999 International Convention for the Suppression of the Financing of Terrorism (the ICSFT) on December 4, 2001 and ratified it on May 13, 2002.

607. Upon their publication in the official Gazette, international treaties and agreements that have been conclusively adopted in accordance with the provisions of law are “more binding than organic laws and ordinary laws except in the case of non compliance by one of parties” (Article 126 of the Constitution). Most of the provisions of the relevant international conventions require implementing measures, which, in the case of Rwanda, have been taken, albeit not entirely comprehensively, with the adoption of the AML/CFT Law.

608. As mentioned under SR.III above, Rwanda has not fully implemented the UNSCRs dealing with the prevention and suppression of the financing of terrorism.

Additional Element—Ratification or Implementation of Other relevant international conventions (c. 35.2):

609. Rwanda is also party to the 1999 Convention of the Organization of African Unity on the Prevention and Combating of Terrorism.

Implementation and Effectiveness:

610. Rwanda has not yet fully implemented the relevant provisions of the Vienna and Palermo Conventions, or the relevant UNSCRs and the ICSFT.

6.2.2 Recommendations and Comments

611. In order to fully comply with Recommendation 35 and SR.I, it is recommended that the authorities do the following:

Recommendation 35:

- Fully implement the provisions of the Vienna and Palermo Conventions, the ICSFT, and the relevant UNSCRs.

SR.I:

- Implement fully the relevant UNSCRs.

6.2.3 Compliance with Recommendation 35 and Special Recommendation I

	Rating	Summary of factors underlying rating
R.35	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
SR.I	PC	<ul style="list-style-type: none"> • Effective implementation was not established.

6.3. Mutual Legal Assistance (MLA) (R.36–38, SR.V)**6.3.1 Description and Analysis****Legal Framework:**

612. The main framework for cooperation in the fight against money laundering and terrorist financing is set out in chapter IV of the AML/CFT Law. In addition, the international conventions to which Rwanda is a party and the bilateral agreements it has signed also define the scope and conditions of the MLA that Rwanda may render. Rwanda concluded bilateral cooperation agreements with Kenya, Luxembourg, Malawi, and Uganda,⁶⁸ but their content was not shared with the assessment team. According to the Constitution, multilateral and bilateral agreements take precedence over domestic law. The assessment team was not provided with copies of the agreements to which Rwanda is party; for this reason, it is unable to establish whether the international agreements contradict the text of the law. The description below is based on the AML/CFT Law.

Widest Possible Range of Mutual Assistance (c. 36.1):

613. Article 28 of the AML/CFT Law provides that the government of Rwanda shall cooperate with other States in the exchange of information; in investigations and procedures dealing with protective measures; and seizures and confiscation of the instruments, funds and property related to money laundering and financing of terrorism. It does not, however, deal with cooperation with respect to the predicate offenses. Pursuant to Article 29, the cooperation may include the following:

- collecting evidence or statements from persons;
- assisting the requesting state's legal authorities in providing access to detained persons or other persons in order to witness or to help in the enquiries;

⁶⁸With Kenya: Extradition treaty on reciprocal recognition of judiciary decisions and Treaty on mutual legal assistance in criminal matters, all concluded in Nairobi on May 28, 1990. With Malawi: General Agreement on bilateral cooperation; and Extradition treaty. With Luxemburg: General cooperation agreement signed on December 16, 2002. With Uganda: Extradition convention, Protocol relating to rogatory commissions, both signed on February 6, 1988. Extradition treaty signed on July 2005, and Security cooperation agreement signed on August 8, 1992.

- providing judicial documents;
- executing searches and seizures;
- examining objects and visiting sites;
- providing information and items with evidential value; and
- providing originals or certified copies of relevant documents, including bank statements, accounting documents, and registers, showing the functioning of an enterprise or its commercial activities. According to the authorities, bank statements may be obtained upon request from the NPPA or the police.

614. The law provides for some flexibility in the execution of the requests: investigative and trial measures may be executed pursuant to the requested state's law, as long as this is not incompatible with Rwanda's legislation, and judges or civil servants of the requesting state may participate to the measures taken by their Rwandan counterparts, if necessary (Article 31 of the AML/CFT Law).

Provision of Assistance in Timely, Constructive and Effective Manner (c. 36.1.1):

615. The authorities mentioned that they endeavor to respond to MLA request to the largest extent possible, and in a timely fashion. No further information (such as statistics of incoming requests and their outcome) was, however, provided to support their claim.

No Unreasonable or Unduly Restrictive Conditions on Mutual Assistance (c. 36.2):

616. The AML/CFT Law (Article 30) specifically lists the grounds for refusal—none of which appear to prohibit or place unreasonably or unduly restrictive conditions on the provision of MLA. A request for cooperation may only be refused in the following cases:

- it is likely to prejudice the public order, sovereignty, security, or fundamental principles of the Constitution of the Republic of Rwanda;
- the requesting authority is not competent under the requesting state law, or the request is not duly transmitted;
- the facts on which the request is based have already been criminally processed, sentenced, or definitively judged on the territory of the Republic of Rwanda;
- the offense on which the request is based does not exist under Rwandan law or does not have common characteristics with an offense under Rwandan law;
- the requested measures or other measures with similar effects are not authorized in Rwanda or cannot be applied to the offenses on which the request is based;
- the requested measures cannot be decreed or executed “because of the prescription of the crime of money laundering or financing terrorism” (i.e., status of limitation) under the requesting state's or Rwanda's laws;

- the foreign ruling requested to be implemented is not binding under the legislation of Rwanda;
- the conditions under which the decision from the requesting state has been ordered do not offer sufficient guarantees of defense rights;
- there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on the basis of sex, race, religion, nationality, ethnic origin or political opinions or status;
- the request is based on a political offense or is motivated by political considerations; and
- the case is not important enough to justify the requested measures or the enforcement of the foreign court decision.

617. In case of refusal, the Rwandan government must immediately communicate to the requesting state the grounds for its decision (Article 30 of the AML/CFT Law). No additional information was provided on the grounds that seem to call for flexibility and judgment on the authorities' behalf (such as for example the ones dealing with the non-binding nature of the foreign decision, the level of defense rights that should be considered to be sufficient, and the "importance" of a case), but the authorities met were not aware of any requests having been turned down for any of these reasons.

Efficiency of Processes (c. 36.3):

618. Requests for MLA are to be transmitted to the Rwandan authorities through diplomatic channels. In practice, the MFA transmits the requests to the Ministry of Justice, which, upon verification of the validity of the request, forwards it to the NPPA. In urgent cases, however, requests may be communicated through INTERPOL or directly by the foreign authorities to the judicial authorities in Rwanda, either by mail, or by any other faster means of transmission, leaving a hard copy or equivalent material. It is up to the authorities to establish what constitutes in practice an "urgent case." In such cases, unless confirmation is given through diplomatic channels, requests are not followed up upon (Article 41 of the AML/CFT Law). In practice, the authorities mentioned that they work to maximize both the INTERPOL and the diplomatic channels to ensure that potential delays are avoided.

619. All requests and their annexes must be in, or accompanied by, a translation in Kinyarwanda, English, or French (Article 41 of the AML/CFT Law). They must specify all the following necessary elements to enable their execution according to the type of assistance requested:

- the authority requesting the measure;
- the requested authority;
- the subject of the request and any relevant remark on its context;
- the facts justifying the request;
- all known elements likely to facilitate the identification of the persons concerned and in particular the civil status, the nationality, the address, and the profession;

- all necessary information to identify and locate the person, instruments, resources, or property concerned;
- the text of the legal provision instituting the offense or, if needed, a report of the law applicable to the offense, and the indication of the sentence incurred for the offense; and
- a description of the required assistance and the detail of any particular procedure that the requesting state wishes to see applied (Article 42 of the AML/CFT Law).

620. Additional information is necessary when provisional measures or confiscation are requested, namely in the case of a request for a protective measure, a description of the protective order requested; and in case of a request for a decision for confiscation, a report of the relevant facts and arguments allowing the judicial authorities to pronounce the confiscation, according to the provisions of national law.

621. In case of a request for enforcement of a decision of a protective measure or of confiscation, the requests must be further accompanied by a certified copy of the decision setting out such grounds and, if it does not state them, an explanatory note of such a decision; a certificate according to which the decision is enforceable and not subject to ordinary means of redress; the indication of the limits within which the decision shall be carried out and, where appropriate, the amount of money to reclaim for the asset(s); and if applicable and if possible, all indications related to the rights that third parties can demand on the instruments, resources, property, or other.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 36.4):

622. According to the authorities and the list of grounds for refusal mentioned above, the fact that the offense that gave rise to a request for MLA is also considered to involve fiscal matters is not in itself sufficient grounds to refuse to cooperate.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 36.5):

623. Pursuant to Article 8 of the AML/CFT Law, every reporting entity, control organ, or auditor must implement the law, notwithstanding any obligation of professional secrecy or restriction of divulgence of information imposed by any other law. According to the authorities, this notably means that they may request, on behalf of a foreign State, information held by any of the reporting entities. The assessment found, however, that this did not include information held by lawyers because the scope of legal privilege in Rwanda is too broad (i.e., goes beyond the exemption from the reporting requirement provided for in the standard) and applies to all information obtained by lawyers.

Availability of Powers of Competent Authorities (applying R.28, c. 36.6):

624. According to the authorities, the powers available to them to search and seize information may be used in response to a request for MLA.

Avoiding Conflicts of Jurisdiction (c. 36.7):

625. No mechanisms were established to avoid conflicts of jurisdiction. The authorities did not recall having ever encountered such a conflict in practice.

Additional Element—Availability of Powers of Competent Authorities Required under R28 (c. 36.8):

626. According to the authorities, they may use the powers granted in the domestic context to respond to a direct request for assistance from foreign judicial or enforcement authorities.

International Cooperation under SR V (applying c. 36.1-36.6 in R. 36, c. V.1):

627. The measures and procedures described above are equally applicable to requests for assistance in the fight against terrorist financing.

Dual Criminality and Mutual Assistance (c. 37.1, 37.2 and SR V.2):

628. The AML/CFT Law only addresses dual criminality in the context of extradition: MLA may be rendered for less intrusive and compulsory measures even in instances where there is no dual criminality. In the absence of requests made in the context of the fight against money laundering and terrorist financing, this principle has not been tested by the courts.

Timeliness to Requests for Provisional Measures including Confiscation (c. 38.1):

629. Requests for provisional measures are dealt with by the competent court: if the request is written in general terms, the court will pronounce the most appropriate protective measure provided for by Rwandan legislation, and if the requested provisional measures are not provided for in Rwanda, the court may substitute them with other appropriate measures (Article 32). No example of “appropriate measures” was given. According to the authorities, the powers granted by the PC (Article 51) to freeze, seize, and ultimately confiscate can be exercised in response to a foreign request to the same extent as in the course of a domestic investigation. As a result, the authorities may seize or freeze and confiscate all items subject to confiscation under the standard. Considering the absence of requests for provisional measures and confiscation, however, the authorities have not had the opportunity to gain practical experience in implementing these provisions on behalf of a foreign State.

Property of Corresponding Value (c. 38.2):

630. If the assets to be frozen, seized, and confiscated are no longer available or are not identifiable, the authorities may seize and confiscate assets of corresponding value (Article 51 of the PC). According to the authorities, although this provision applies in the context of a domestic investigation, it may also be used in response to a request from a foreign State.

Coordination of Seizure and Confiscation Actions (c. 38.3):

631. There is no mechanism for coordinating seizure or confiscation actions with other countries and the authorities were not aware of such coordination having been necessary in practice so far.

International Cooperation under SR V (applying c. 38.1-38.3 in R. 38, c. V.3):

632. The provisions and authorities’ views mentioned above apply equally to MLA in the context of combating the financing of terrorism.

Asset Forfeiture Fund (c. 38.4):

633. Pursuant to Article 61 of the AML/CFT Law, confiscated resources or assets are vested in the state that may allocate them to a fund designated for combating money laundering, terrorism, transnational organized crime, and illicit traffic of drugs and psychotropic substances. They remain burdened on to the amount of their value of the charge legally made up to the profit of third parties. In the event of confiscation by default, the confiscated assets are vested to the state and are liquidated according to the relevant procedures. However, if the competent court acquits the prosecuted person following the case review, it orders the restitution of the confiscated assets in monetary terms by the state.

634. In practice, no such fund was established because no assets were confiscated, but the law clearly sets out the framework to do so if the need were to arise.

Sharing of Confiscated Assets (c. 38.5):

635. Article 34 of the AML/CFT Law provides that the Rwandan state has the powers to dispose of confiscated property on its territory upon request of foreign authorities, “unless an agreement concluded with the requesting State provides otherwise.” According to the authorities, this would enable them to share assets, if deemed appropriate.

Additional Element (R 38 and V.7)—Recognition of Foreign Orders for a) Confiscation of assets from organizations principally criminal in nature; b) Civil forfeiture; and c) Confiscation of Property which Reverses Burden of Proof (applying c. 3.7 in R.3, c. 38.6); V.7:

636. Article 31 of the AML/CFT Law provides that investigative and trial measures are to be executed in accordance with the laws of the Republic of Rwanda “unless the competent authorities of another State require that it be proceeded according to a specific form compatible with the legislation of the Republic of Rwanda.” According to the authorities, this would enable them to recognize a foreign order for confiscation of assets from organizations principally criminal in nature, civil forfeiture, and/or confiscation that reverses the burden of proof if approved by the High Court through exequatur. Considering that no request to recognize such an order was made, it is not clear whether the High Court would deem that the foreign measure, such as civil forfeiture, for example, is indeed “compatible with the legislation of Rwanda” and approve its implementation.

Statistics (applying R.32):

637. At the time of the assessment, the authorities had received two requests for MLA in the fight against money laundering (one from Switzerland and the other from Belgium). The authorities mentioned that they responded to the requests through rogatory commission, but they did not provide any information on the object of the requests and the timing of the response. They also mentioned having requested a neighboring country’s assistance in a terrorist financing case, but without providing additional details. The authorities met were not aware of any requests for MLA having been turned down.

Implementation and Effectiveness:

638. The conditions for and the range of measures that Rwanda can take in response to requests for MLA appear reasonable, and, although the country has little experience in requesting or providing MLA in combating ML, TF, and predicate crimes other than genocide, the authorities appeared eager to

cooperate with other states to the greatest extent possible. Due to the lack of practical experience, however, the authorities could not establish that the MLA framework allows for timely responses to requests for international cooperation, and that dual criminality requirements do not constitute unreasonable obstacles in practice. Similarly, they could not establish how coordination of seizing and confiscation measures would work in practice and how they would cooperate with respect to the predicate offenses.

6.3.2 Recommendations and Comments

639. In order to fully comply with the following Recommendations, the authorities are recommended to do the following:

Recommendation 36:

- Consider devising a mechanism for determining the best venue of jurisdiction of defendants in the interest of justice in cases that are subject to prosecution in more than one country; and
- Ensure that information obtained by lawyers may be obtained upon request from another state in the circumstances envisaged in the standard.

Recommendation 38:

- Establish a framework to freezing, seizing, and confiscating and sharing the proceeds of predicate offenses in response to a request from a foreign country.

6.3.3 Compliance with Recommendations 36 to 38 and SR.V

	Rating	Summary of factors relevant to s.6.3 underlying overall rating
R.36	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide. • Broad scope of the legal privilege prevents the authorities from obtaining upon request of a foreign state any information held by lawyers. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country.
R.37	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
R.38	PC	<ul style="list-style-type: none"> • The AML/CFT Law addresses cooperation in freezing, seizing, and confiscation in the context of ML/TF only and similar cooperation with respect to the predicate offenses is unclear.

		<ul style="list-style-type: none"> • Effective implementation was not established.
SR.V	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • Effective implementation was not established.

6.4. Extradition (R.37, 39, SR.V)

6.4.1 Description and Analysis

Legal Framework:

640. The AML/CFT Law sets the general framework for extradition in ML/TF cases.

641. Rwanda has also concluded bilateral extradition agreements with Kenya, Malawi, and Uganda,⁶⁹ but their content was not shared with the assessment team, and it is therefore unclear to what extent they also apply to extradition for money laundering and terrorist financing.

642. Pursuant to Article 26 of the Constitution, no Rwandan national may be extradited.

Dual Criminality and Mutual Assistance (c. 37.1 and 37.2):

643. Dual criminality is a condition for extradition (Article 36 of the AML/CFT): extradition may only be carried out when the offense giving rise to extradition or a similar offense is envisaged both in the legislation of the requesting State and of the Republic of Rwanda. According to the authorities, technical differences between the laws of Rwanda and the laws of the State requesting extradition would not constitute an impediment to extradition.

Money Laundering as Extraditable Offense (c. 39.1):

644. Pursuant to Article 35 of the AML/CFT Law, money laundering (as well as terrorist financing) is an extraditable offense. Requests for extradition are to be carried out pursuant to the terms of the applicable treaty and, in the absence of a treaty, according to the principles defined by the standard treaty of extradition adopted by the General Assembly of the United Nations in its Resolution 45/116. The

⁶⁹With Kenya: Extradition treaty on reciprocal recognition of judiciary decisions and Treaty on mutual legal assistance in criminal matters, all concluded in Nairobi on May 28, 1990. With Malawi: General Agreement on bilateral cooperation, and Extradition treaty. With Uganda: Extradition convention and Protocol relating to rogatory commissions, both signed on February 6, 1988. Extradition treaty signed on July 2005 and Security cooperation agreement signed on August 8, 1992.

AML/CFT law sets out grounds for both compulsory⁷⁰ and optional⁷¹ refusal of extradition (Article 37 and 38), all of which are reasonable and do not appear to unduly limit the fight against money laundering and terrorist financing. Extradition is, however, only available for persons who have been convicted on money laundering charges, and not for persons charged for money laundering and pending trial.

Extradition of Nationals (c. 39.2) and Cooperation for Prosecution of Nationals (c. 39.3):

645. Rwanda cannot extradite its nationals (Articles 25 of the Constitution and 37 of the AML/CFT Law). The AML/CFT Law provides that, when certain grounds of refusal are met, the case must be referred to the competent Rwanda court, but it does not list nationality among the grounds that give raise to the principle of *aut dedere aut judicare* principle. No action is required following the refusal to extradite a Rwandan national. There is therefore no framework for cooperation in the prosecution of a Rwandan national.

Efficiency of Extradition Process (c. 39.4):

⁷⁰Requested extradition of the accused shall not be granted in the following cases:

- 1) there are serious reasons to believe that the request for extradition was presented with a view to suing or punishing a person due to his/her race, religion, nationality, ethnic origins, political opinions, sex, or status; or that this situation may endanger him/her for any of the above reasons;
- 2) a final judgment was pronounced in the Republic of Rwanda for the offense in respect of which the extradition is being sought;
- 3) the person whose extradition is being sought can no longer, due to the legislation of one or the other of these countries, be sued or punished due to the elapsed time; and
- 4) the person whose extradition is being sought has been or would be subjected to torture and other cruel, inhuman, and degrading treatments;
- 5) the person whose extradition is being sought has not received or would not receive the minimum guarantees in criminal proceedings as contained in Article 14 of the International Convention on Civil and Political Rights.

The extradition may not be refused for the simple reason that the offense is considered as relating to fiscal issues. In any case, extradition of a Rwandan citizen shall not be granted.

⁷¹Extradition may be refused in the following cases:

- 1) the competent authorities of the Republic of Rwanda have decided not to proceed with charges against the person concerned for the particular offense for which the extradition is requested or to put an end to the proceedings instituted against the aforementioned person;
- 2) proceedings for the offense related to the requested extradition are pending in the Republic of Rwanda;
- 3) the offense for which the extradition is requested has been committed outside the territory of either country and for which, according to the legislation of the Republic of Rwanda, the Rwandan jurisdictions are not competent with regard to the offenses committed outside its territory in comparable circumstances;
- 4) the person whose extradition is requested has been judged or risked to be judged or convicted in the requesting State by a special Court;
- 5) the Republic of Rwanda, while taking into account the nature of the offense and the interests of the requesting State, considers that, given the circumstances of the matter, the extradition of the concerned person would be incompatible with humanitarian considerations, taking into account the age, the state of health, or other personal circumstances of the aforesaid person;
- 6) the offense for which the extradition is requested is considered by the legislation of the Republic of Rwanda as committed in all or partly on its territory;
- 7) the extradition is requested in execution of a final judgment issued in the absence of the person concerned who has not been able to ensure his/her defense for reasons beyond his/her will.

646. The laws and procedures applicable to a request for extradition aim at ensuring that the request for extradition is founded,⁷² but do not address the timeframe in which a response should be provided. At the time of the assessment, no requests for extradition had been submitted and processed in Rwanda in application of the AML/CFT Law. It was therefore not possible to establish whether extradition may be executed in a timely fashion.

Additional Element (R.39 and V)—Existence of Simplified Procedures relating to Extradition (c. 39.5, and V.8):

647. There are no simplified extradition procedures in place.

Statistics (R.32):

648. Rwanda has not been requested to extradite anyone on the basis of a conviction for money laundering or terrorist financing.

6.4.2 Recommendations and Comments

649. In order to fully comply with Recommendation 39 and SR.V, the authorities are recommended to do the following:

- Ensure that Rwandan nationals who are found guilty of money laundering or terrorist financing by a foreign state and whose extradition to that state is refused by Rwanda on the grounds of nationality only are subject to prosecution in Rwanda;
- If necessary, to ensure the efficiency of this process, establish a framework for cooperation with the foreign state that had originally requested the extradition of the Rwandan national;
- Ensure that extradition is also available for persons charged with a money laundering or a terrorist financing offense and pending trial; and
- Ensure that extradition requests may be handled without undue delay.

⁷²The authorities provided in particular the following explanations on the extradition process: Unless otherwise specified by the bilateral extradition treaties signed (which, as mentioned above, were not provided to the assessors), requests for extradition must be accompanied by the judgment (or a certified copy conform to the judgment) or any other document proving that the concerned person has been recognized guilty and indicative of the sentence pronounced. They must also establish that the judgment is enforceable and the extent to which the sentence has not been carried out. The ministry in charge of justice, after having verified the legitimacy of the request, must submit it to the NPPA of the location where the person whose extradition is requested is located. The NPPA must then refer to the competent civil servants for the requests for investigation and the competent court with regard to the requests related to extradition.

6.4.3 Compliance with Recommendations 37 and 39, and SR.V

	Rating	Summary of factors relevant to s.6.4 underlying overall rating
R.39	PC	<ul style="list-style-type: none"> • There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign State and whose extradition is refused on the basis of nationality only. • There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality. • Extradition is not available for persons charged for money laundering and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established.
R.37	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
SR.V	PC	<ul style="list-style-type: none"> • There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign state and whose extradition is refused on the basis of nationality only. • There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality. • Extradition is not available for persons charged for terrorist financing and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established.

6.5. Other Forms of International Cooperation (R.40 and SR.V)

6.5.1 Description and Analysis

Legal Framework:

650. FIU: Articles 14 to 16 of the FIU Presidential Decree.

651. Financial sector laws, including the Central Bank Law (No. 55/2007), Banking Law (No. 007/2008), Law Regulating the Capital Market in Rwanda (No. 1/2011), and Law Establishing the

Capital Market Authority (No. 52/2008) provide the framework for exchanging and sharing information with foreign counterparts.

Widest Range of International Cooperation (c. 40.1 to 40.9)

LEAs:

652. The law enforcement authorities in Rwanda are able to provide international cooperation to their foreign counterparts through a number of fora, including Interpol, as well as direct police-to-police contact. The Directorate of International Cooperation (DIC) at the RNP receives and replies to requests of information from counterparts. The directorate is composed of the following four divisions: multilateral cooperation, cooperation with organizations, bilateral cooperation, and research and liaison. Eight officers are working for the Directorate.

653. The law enforcement authorities have signed MOUs with counterparts in a large number of countries. The provision of direct assistance is generally not subject to any conditions or restrictions. The information-sharing ability of law enforcement also extends to information subject to confidentiality.

654. Rwanda is member of the following organizations that facilitate the exchange of information between LEAs:

- The Eastern Africa Police Chiefs Cooperation Organization⁷³ (EAPCCO) that was created in 1998 in Kampala, Uganda, as a regional practical response to the need to join police efforts against transnational and organized crime.
- The EAC, the regional intergovernmental organization of Kenya, Uganda, Tanzania, Rwanda, and Burundi, with its headquarters in Arusha, Tanzania. The EAC aims at widening and deepening co-operation among the Partner States in, among others, political, economic, and social fields for their mutual benefit. To this extent, the EAC countries established a Customs Union in 2005 and a Common Market in 2010. The next phase of the integration will see the bloc enter into a Monetary Union and ultimately become a Political Federation of the East African States.

655. The LEAs in Rwanda are not authorized to conduct investigations on behalf of foreign counterparts as required by the standard.

656. The authorities have informed the assessment team that cooperation may not be refused merely based on the involvement of fiscal matters. However, assessors have not been informed of any written process that sets forth the scope or nature of the sharing of AML/CFT information internationally or that would specifically permit the sharing of information related to fiscal matters.

657. It is not possible to share information detained by lawyers with foreign counterparts since LEAs cannot obtain financial information and documents from them. Lawyers in Rwanda are obliged to stringent confidentiality requirements when they prepare for or carry out transactions for their clients concerning the activities set under Recommendation 12.

⁷³EAPCCO is composed of the following 11 members: Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Seychelles, Somalia, South Sudan, Sudan, and Tanzania.

FIU:

658. Pursuant to Article 14 of the AML/CFT Law, the FIU can transmit to a national or relevant foreign control organ or to the authorities responsible for the enforcement of the AML/CFT Law the information resulting directly or indirectly from its examination when it has good reasons to believe that the information is suspicious or that it can contribute to an investigation on the non-respect of the AML/CFT Law or to the crime of money laundering and financing of terrorism in compliance with the Instructions of the Inspector General of the RNP. The authorities mentioned that “the Director of the FIU works under the supervision of the IGP, and follows the RNP crime prevention strategies and standard operating procedures as provided by the RNP leadership.”

659. Article 15 determines the relationship of the Rwandan FIU with foreign FIUs. The FIU can, on its own initiative or upon request, provide, receive, or exchange information with the financial intelligence unit from another country or other foreign counterparts with similar functions about an STR, provided that the counterparts concerned are under the same obligations of professional secrecy. From this perspective, the FIU can conclude cooperation agreements in compliance with the procedural manual prepared by the Unit and approved by the Advisory Board. When the unit receives a request for information or transmission of financial information from a financial intelligence unit of another country, it shall follow up this request in the limits of the power conferred to it under the Law.

660. Finally, Article 16 sets the confidentiality requirements: “before transmitting personal data to a foreign authority, the [FIU] must take steps to ensure that this information is protected by the same provisions of professional secrecy as those which apply to the information of national source provided to the aforementioned authority and this one uses information for purposes envisaged by this [decree or the AML/CFT Law].”

661. Although the legal framework is satisfactory, the Inspector General of the RNP did not release instructions determining the conditions for information sharing, and the FIU did not develop a procedural manual for cooperation agreements as required by Article 15 of the Presidential Decree. In practice, the FIU did not sign MOUs with foreign counterparts, and has never shared information with them. It is not member of Egmont Group and is not currently implementing its principles.

Statistics (R.32)

662. No information was provided with respect to the number and type of requests received from foreign counterparts by any of the competent authorities.

Widest Range of International Cooperation (c. 40.1); Provision of Assistance in Timely, Constructive and Effective Manner (c. 40.1.1); and Clear and Effective Gateways for Exchange of Information (c. 40.2) and Spontaneous Exchange of Information (c. 40.3):

663. The BNR and the CMA as the competent supervisory authorities in Rwanda are vested with powers to share information with other competent authorities internationally.

664. Law 55/07, Article 72, allows the BNR to cooperate with foreign central banks, foreign supervisory authorities, foreign regulators, and international institutions in the execution of its functions. Also, Article 58, section 3 of the Banking Law provides for consolidated supervision and grants the BNR

with the power to “set out modalities of cooperation with the supervisory authority of the host country by means of a cooperative agreement.” As mentioned above, however, the BNR is not the AML/CFT supervisor and may therefore not use these powers for AML/CFT purposes.

665. The CMA has powers to share information with other international competent authorities under Articles 51, 52, 57, and 58 of the Law 1/2011, and Article 3 paragraph 14 of the Law 11/2011. These powers allow the CMA to provide assistance to other foreign regulatory authorities, including carrying out investigations of any alleged breaches of the legal or regulatory requirements or to provide such other information, opinion, or assistance as may be required by a foreign regulatory authority.

666. According to the authorities, some MOUs were concluded (although they did not specify with whom) but do not provide for the exchange of information in relation to ML and the underlying predicate offenses.

667. No further information was provided on the way in which both authorities provide assistance to their foreign counterparts in practice.

Making Inquiries on Behalf of Foreign Counterparts (c. 40.4):

668. No information was provided on whether and under what conditions the competent authorities may make inquiries on behalf of foreign counterparts.

No Unreasonable or Unduly Restrictive Conditions on Exchange of Information (c. 40.6) and Safeguards in Use of Exchanged Information (c. 40.9):

669. Similarly, no information was provided on the type of controls or safeguards in place to ensure that the information received by the competent authorities other than the CMA is used only in an authorized manner.

670. The CMA is allowed to provide assistance to foreign authorities, provided that, among other issues, the following conditions are established: (i) the foreign regulatory authority is a legally recognized authority; (ii) whether the assistance sought would be used by the foreign regulatory authority in fulfilling its responsibilities; (iii) whether the foreign regulatory authority will provide comparable assistance to the CMA; (iv) whether the foreign regulatory authority would comply with any condition that the CMA may impose on the transmission of such information; and (v) whether the foreign regulatory authority is able to keep the information provided confidential. Based on these provisions, it does not appear that the CMA’s ability to exchange information is subject to disproportionate or unduly restrictive conditions.

Provision of Assistance Regardless of Possible Involvement of Fiscal Matters (c. 40.7):

671. According to the authorities, the fact that a request may involve fiscal matters is not sufficient grounds for refusing a request for cooperation.

Provision of Assistance Regardless of Existence of Secrecy and Confidentiality Laws (c. 40.8):

672. There is no secrecy, financial, or confidentiality law in Rwanda restricting financial institutions from exchanging information. However, for DNFBPs, particularly for lawyers (advocates), these legal professionals are subject to strict professional secrecy provisions under the Criminal Code, the Law

Organizing the Lawyers Profession, and internal regulations issued by the Bar Association. Refer to R.16 for DNFBPs description and analysis with respect to legal professional privilege or legal professional secrecy.

Additional Element—Exchange of Information with Non-Counterparts (c. 40.10, c. 40.10.1, and 40.11):

673. No information was provided on the mechanisms in place.

Implementation and effectiveness:

674. Very little information was provided on the legal framework for cooperation and it appeared that the competent authorities have no experience in cooperating with their foreign counterparts in AML/CFT matters.

675. The FIU never shared information with counterparts.⁷⁴ Law enforcement agencies are not proactive enough in requesting information on ML/TF and underlying predicate offenses from their counterparts. Most of the requests made by Rwanda are about fugitive tracking and Genocide cases. They are not authorized to conduct investigations on behalf of foreign counterparts. The LEAs never shared TF information with counterparts. The lack of TF criminalization can limit the scope of sharing of TF information.

676. The MOUs in place do not cover AML/CFT matters to allow the BNR and the CMA to share or exchange information in relation to the following:

- both ML and the underlying predicate offenses, and
- allow the AML/CFT supervisory authorities to conduct inquiries on behalf of foreign counterparts.

677. The mission also identified that there are professional secrecy provisions applicable to the legal profession (advocates) representing an impediment for complying with the sharing or exchanging of information.

6.5.2 Recommendations and Comments

678. The authorities are recommended to do the following:

- Ensure that the FIU shares information with its foreign counterparts;
- Provide LEAs with the power to conduct investigations on behalf of foreign counterparts;

⁷⁴ The authorities indicated that, since the assessment, the FIU has been sharing information with other law enforcement agencies on a regular and at times on a daily basis.

- Allow for the sharing of information and documents detained by lawyers when conducting transactions for their client concerning the activities set under Recommendation 12;
- Maintain statistics on the number of requests for assistance made or received by law enforcement authorities, the FIU, and supervisors, including whether the request was granted or refused and the response time;
- Ensure that all AML/CFT supervisors have arrangements in place to share and exchange information with respect to both ML and the underlying predicate offenses;
- Grant powers to all AML/CFT supervisors to allow for the conduct of inquiries on behalf of foreign counterparts;
- Establish controls and safeguards for the AML/CFT supervisor for banks and other entities licensed by the BNR, FIU, and LEAs to ensure that the information received by competent authorities is used only in an authorized manner; and
- Ensure that requests for cooperation are not refused on the grounds of professional privilege or legal professional secrecy.

6.5.3 Compliance with Recommendation 40 and Special Recommendation V

	Rating	Summary of factors relative to s.6.5 underlying overall rating
R.40	NC	<p>With respect to the FIU and LEAs:</p> <ul style="list-style-type: none"> • No sharing of information by the FIU with foreign counterparts. • Lack of powers of LEAs to conduct investigations on behalf of foreign counterparts. • Impossibility of sharing information detained by lawyers when conducting transactions for their clients concerning the activities set under Recommendation 12. • Lack of statistics and overall effectiveness. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • No AML/CFT supervisor in place for the banking sector that may cooperate with foreign counterparts. • Lack of arrangements in place to the sharing and exchange of information with respect to both ML and the underlying predicate offenses. • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts. • Lack of controls and safeguards in place for the AML/CFT supervisor of banks and other entities licensed by the BNR, the FIU, and LEAs to ensure that the information received by competent authorities is used only in an

		<p>authorized manner.</p> <ul style="list-style-type: none"> • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.
SR.V	NC	<p>With respect to the FIU and LEAs</p> <ul style="list-style-type: none"> • Lack of TF criminalization limits the ability to provide cooperation by all concerned authorities. • Lack of overall effectiveness of the exchange of information relating to TF. • Lack of statistics. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • Lack of arrangements in place to facilitate the sharing and exchange of information with respect to both TF and the underlying predicate offenses. • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts in TF matters. • Lack of controls and safeguards in place in the banking sector to ensure that the information received by competent authorities is used only in an authorized manner. • Lack of requirements in place to ensure that the information is not refused on the grounds that it involves fiscal matters. • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.

7. OTHER ISSUES

7.1. Resources and Statistics

679. At the time of the assessment, the implementation of the AML/CFT framework had only just begun, and the authorities were not fully seized of their AML/CFT functions. It was therefore not possible to establish whether current resources are sufficient, but, going forward, all competent authorities are likely to require additional resources to be able to conduct their AML/CFT functions adequately. Overall, the level of awareness in combating money laundering and terrorist financing and in the provisions of the AML/CFT was relatively low across the range of competent authorities.

680. Statistical information was scarce, mainly due to the fact that the law had not been applied in many instances, but the authorities seemed to have the necessary capacity to produce valid statistics once implementation increases.

681. Due to the recent implementation of the law, no review of the effectiveness of the AML/CFT framework had been conducted.

7.2. Recommendations and Comments

682. In order to comply fully with the following Recommendations, the authorities are recommended to do the following:

Recommendation 30:

- Ensure that all competent authorities are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions, keeping in mind that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference; and
- Staff of competent authorities are provided with adequate training on AML/CFT.

Recommendation 32:

- Review the effectiveness of the AML/CFT system on a regular basis; and
- Ensure that all competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT framework in line with the FATF standard.

	Rating	Summary of factors underlying rating
R.30	NC	<ul style="list-style-type: none"> • Unable to determine whether resources are sufficient (in numerical terms) due to lack of implementation. • Overall, resources did not appear adequate in terms of technical knowledge of AML/CFT. • Insufficient training provided on AML/CFT.
R.32	NC	<ul style="list-style-type: none"> • Lack of collection of detailed statistics on matter relevant to the effectiveness and efficiency of the AML/CFT regime. • No review of the effectiveness of the AML/CFT system on a regular basis.

7.3. Other Relevant AML/CFT Measures or Issues

683. None.

7.4. General Framework for AML/CFT System (see also section 1.1)

684. None.

Table 11. Ratings of Compliance with FATF Recommendations

Forty Recommendations	Rating	Summary of factors underlying rating⁷⁵
Legal systems		
1. ML offense	LC	<ul style="list-style-type: none"> • Lack of clarity as to whether prior conviction for the predicate offense is required to prove that property is the proceeds of crime, and authorities are of the view that it is a necessary requirement. • ML offense does not cover the concealment or disguise of the movement of property. • Lack of effectiveness of the money laundering offense.
2. ML offense—mental element and corporate liability	PC	<ul style="list-style-type: none"> • Lack of clarity as to whether the intentional element of the offense can be inferred from objective factual circumstances, and authorities are of the view that it cannot. • Lack of sanctions and effective implementation of the money laundering offense.
3. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • Rights of <i>bona fide</i> third parties not ensured in the criminal process. • Lack of effectiveness: no funds or assets have been confiscated in application of the AML/CFT Law and the PC; limited use of the provisional measures and powers to identify and trace the proceeds of crimes.
Preventive measures		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • The mechanisms in place for exchanging and sharing information among competent authorities have not addressed AML/CFT matters. • Effectiveness was not established with respect to the sharing of information between competent authorities, both at a domestic and at an international level.
5. Customer due diligence	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and

⁷⁵These factors are only required to be set out when the rating is less than Compliant.

	<p>intermediaries are not subject to the AML/CFT Law.</p> <ul style="list-style-type: none"> • Banks are not prohibited from keeping anonymous accounts or accounts in fictitious names. • No requirement to undertake CDD measures when carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR. VII. • No requirement to undertake CDD measures when there is suspicion of terrorist financing. • No threshold set by the FIU for conducting CDD for occasional transactions and, as such, the identification obligation remains inapplicable. • No mechanisms in place for verifying the power to bind the legal person or arrangement. • No requirement to identify the customer and verify the customer's identity using reliable, independent source documents, data or information. • No requirement to identify the beneficial owner in line with the standard. No requirement to understand the control structure of the customer and identify the natural person(s) who ultimately own or control the customer, including those with a controlling interest and those who comprise the mind and management of the company. • No requirement to undertake ongoing due diligence on the business relationship. • No requirement to ensure that documents, data, or information collected under the CDD process is kept up to date, particularly for higher risk categories of customers or business relationships. • No obligation to establish the purpose and intended nature of the business relationship. • No requirement to undertake enhanced CDD for high-risk customers, business relationships, or transactions. • No requirement to reject opening an account/commence business relationship/perform the transaction when unable to comply with the CDD measures and to consider making an STR.
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		<ul style="list-style-type: none"> • No requirement to terminate the business relationship and consider filing an STR in the event that the financial institution can no longer be satisfied that it knows the genuine identity of the customer for whom it has already opened an account. • No requirement to apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and to conduct due diligence on such existing accounts at appropriate times. • No requirement to perform CDD measures on existing customers who hold anonymous accounts or accounts in fictitious names. • Low level of implementation by all reporting entities. • The effectiveness of the CDD measures has not been demonstrated.
6. Politically exposed persons	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to put in place appropriate risk management systems to determine whether a potential customer, a customer, or the beneficial owner is a PEP. • No requirement to obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP. • No requirement to take reasonable measures to establish the source of wealth and source of funds for the beneficial owners identified as PEPs. • No requirement to conduct enhanced monitoring on the relationship with PEPs. • Low level of implementation. • The effectiveness of the measures related to PEPs has not been demonstrated.
7. Correspondent banking	NC	<ul style="list-style-type: none"> • No measures in relation to cross-border correspondent banking or other similar relationships.
8. New technologies and non-face-	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT

to-face business		<p>Law.</p> <ul style="list-style-type: none"> • No requirement on reporting entities to do the following: <ul style="list-style-type: none"> • Have policies in place or take such measures as may be needed to prevent the misuse of technological developments in money laundering or terrorist financing schemes; • Have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions; and • Implement measures for managing the risks including specific and effective CDD procedures that apply to non-face-to-face customers.
9. Third parties and introducers	NC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No legal or regulatory provisions addressing reliance on third parties to perform elements of the CDD process or introduce business.
10. Record-keeping	PC	<ul style="list-style-type: none"> • Scope limitation: Insurance companies and intermediaries are not subject to the AML/CFT Law. • No requirement to maintain accounts files. • Limitation/restriction of competent authorities' access on a timely basis to customer and transaction records. • The shortcomings identified under Rec.5 affect the effectiveness and implementation of the record-keeping measures with regard to the necessary components of transaction records (i.e., address, beneficiary's name).
11. Unusual transactions	NC	<ul style="list-style-type: none"> • No obligation to make findings of examinations of complex and unusual transactions available to competent authorities and auditors. • Limited knowledge of the requirement coupled with ineffective implementation due to non-automated systems for monitoring transactions. • Lack of effective implementation.
12. DNFBP–R.5, 6, 8–11	NC	<ul style="list-style-type: none"> • Casinos are not reporting entities under the AML/CFT Law.

		<ul style="list-style-type: none"> • No threshold for CDD measures applicable to casinos and dealers in precious metals and stones. • The shortcomings identified in the framework of Recommendations 5, 6, and 10–11 are applicable to designated non-financial business and professions. • No provisions in line with Recommendations 8–9. • Lack of implementation of the preventive measures by DNFBPs. • The effectiveness of the preventive measures to AML/CFT has not been established.
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • The scope of the reporting obligation is too narrow because the money laundering offense does not apply to all the predicate offenses designated by the FATF. • The reporting obligation does not extend to insurance companies and insurance brokers/agents. • There is no obligation to report attempted transactions. • There is no obligation to report funds suspected of being linked or related to or to be used by individual terrorists. • Implementation of reporting obligation is low.
14. Protection and no tipping-off	C	<ul style="list-style-type: none"> • This recommendation is met.
15. Internal controls, compliance and audit	PC	<p>Although the AML/CFT Law does require the implementation of some measures to prevent ML and TF, it lacks the necessary level of clarity and detail to be in compliance with the standard. In particular:</p> <ul style="list-style-type: none"> • The requirements for reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions, and the reporting obligation are incomplete. • There are incomplete requirements for reporting entities to do the following: <ul style="list-style-type: none"> • Communicate the internal procedures, policies, and controls to prevent ML and TF to their employees; and

		<ul style="list-style-type: none"> • Designate the AML/CFT compliance officer and other appropriate staff with timely access to customer identification and other CDD information, transaction records, and other relevant information. • The requirements for internal audit function to assess the adequacy of internal control systems and policies with respect to AML/CFT and to maintain an adequately resourced and independent audit function are incomplete. • There is a lack of implementation of the requirements under this recommendation. • Effectiveness was not established.
16. DNFBP-R.13–15 and 21	NC	<ul style="list-style-type: none"> • Casinos are not subject to the requirements of Rec. 13, 14, 15, and 21. • The shortcomings identified in the framework of Recommendations 13, 14, 15, and 21 are applicable to non-financial business and professions. • Professional secrecy provisions for lawyers and legal professionals pose an impediment to suspicious transactions reporting. • No reporting by DNFBPs. • Effectiveness was not established.
17. Sanctions	NC	<ul style="list-style-type: none"> • No sanctioning regime for failure to comply with AML/CFT obligations (i.e., no competent authority, lack of clarity as to the range of available sanctions, and scope limitation of available sanctions.)
18. Shell banks	LC	<ul style="list-style-type: none"> • No requirement for reporting entities to satisfy themselves that their foreign respondents do not permit their accounts to be used by shell banks.
19. Other forms of reporting	C	<ul style="list-style-type: none"> • This recommendation is met.
20. Other NFBP and secure transaction techniques	NC	<ul style="list-style-type: none"> • No risk assessment has been conducted in the domestic sector. • No consideration has been given to applying the FATF recommendations to other higher-risk businesses and professions. • No evidence of measures or steps taken to encourage the development of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.

21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> • Lack of measures to advise reporting entities of concerns about weaknesses in the AML/CFT systems of other countries. • Lack of requirements imposed on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and that the written findings of those business transactions are available to assist competent authorities and auditors. • Lack of countermeasures in place to address instances where a country continues not to apply or insufficiently applies the FATF Recommendations. • Lack of effective implementation.
22. Foreign branches and subsidiaries	N/A	
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • No authority or authorities designated for AML/CFT supervision. • Institutions not subject to adequate AML/CFT regulation and supervision. • Lack of fit-and-proper measures for pension, payment service providers, and Forex sectors, and application of relevant Core Principles to AML/CFT matters. • Lack of measures to ensure that relevant prudential regulatory and supervisory measures are also applicable for AML/CFT purposes. • Effectiveness was not established.
24. DNFBP—regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> • The FIU does not have the capacity (both in terms of resources and expertise) to conduct AML/CFT supervision in an adequate manner. • No AML/CFT supervision of DNFBPs. • No sanctions for non-compliance with the AML/CFT obligations. • Lack of implementation and awareness of AML/CFT obligations.
25. Guidelines and Feedback	NC	<ul style="list-style-type: none"> • Lack of guidelines and guidance on reporting obligation. • Lack of adequate and appropriate feedback from competent authorities, in particular the FIU. • No guidance has been issued to assist DNFBPs

		<p>in the implementation of their AML/CFT obligations.</p> <ul style="list-style-type: none"> • No (general) feedback has been provided by the FIU. • Lack of guidelines and guidance on AML/CFT issues provided by the BNR and the CMA to reporting entities.
Institutional and other measures		
26. The FIU	PC	<ul style="list-style-type: none"> • Lack of analysis of STRs and other information mostly due to performing investigations and lack of analytical tools and weak quality/quantity of reporting. • Lack of guidance on manner of reporting including reporting forms for nonbank reporting entities. • No additional requests of information addressed to reporting entities. • Very low level of dissemination due to low level of STRs received. • No publication of annual reports containing information about its activities, statistics, and typologies. • Lack of sufficient operational independence and autonomy mainly due to the powers and responsibilities of the Advisory Board. • Information not securely protected. • Effectiveness was not established
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> • The various police units responsible for the investigation of the predicate crimes do not investigate ML related activities; the FIU conducts some investigations into ML on the basis of STRs received, although it should focus on its analysis functions. • Effectiveness of the current investigation and prosecution framework was not established.
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> • Lack of powers to compel production of documents and information from FIs and DNFBPs (documents can only be seized based on powers in CPC). • No legal power obtaining documents and information held by lawyers. • Effectiveness of powers for document

		production, search, and seizure was not established.
29. Supervisors	NC	<ul style="list-style-type: none"> • Lack of adequate supervisory authority/powers addressing AML/CFT matters across all sectors.
30. Resources, integrity, and training	NC	<ul style="list-style-type: none"> • Unable to determine whether resources are sufficient (in numerical terms) due to lack of implementation. • Overall, resources did not appear adequate in terms of technical knowledge of AML/CFT. • Insufficient training provided on AML/CFT.
31. National cooperation	NC	<ul style="list-style-type: none"> • Lack of a mechanism to ensure cooperation amongst all relevant authorities and coordination of the development and implementation of AML/CFT policies and activities. • No bilateral exchange of information between the FIU, LEAs, and supervisory authorities.
32. Statistics	NC	<ul style="list-style-type: none"> • Lack of collection of detailed statistics on matter relevant to the effectiveness and efficiency of the AML/CFT regime. • No review of the effectiveness of the AML/CFT system on a regular basis.
33. Legal persons – beneficial owners	PC	<ul style="list-style-type: none"> • Information collected at the time of incorporation is easily accessible but it is not kept up to date and does not specifically address the beneficial ownership.
34. Legal arrangements – beneficial owners	N/A	
International Cooperation		
35. Conventions	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide. • Broad scope of the legal privilege prevents the authorities from obtaining upon request of a foreign state any information held by lawyers. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country.
37. Dual criminality	LC	<ul style="list-style-type: none"> • Effective implementation was not established.
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> • The AML/CFT Law addresses cooperation in freezing, seizing, and confiscation in the context

		<p>of ML/TF only and similar cooperation with respect to the predicate offenses is unclear.</p> <ul style="list-style-type: none"> Effective implementation was not established.
39. Extradition	PC	<ul style="list-style-type: none"> There is no framework to allow for the prosecution of a Rwandan national found guilty of ML or TF by a foreign State and whose extradition is refused on the basis of nationality only. There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality. Extradition is not available for persons charged for money laundering and pending trial. It is unclear whether a request for extradition could be executed without undue delay. The effectiveness of the framework for extradition was not established.
40. Other forms of cooperation	NC	<p>With respect to the FIU and LEAs:</p> <ul style="list-style-type: none"> No sharing of information by the FIU with foreign counterparts. Lack of powers of LEAs to conduct investigations on behalf of foreign counterparts. Impossibility of sharing information detained by lawyers when conducting transactions for their client concerning the activities set under Recommendation 12. Lack of statistics and overall effectiveness. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> No AML/CFT supervisor in place for the banking sector that may cooperate with foreign counterparts. Lack of arrangements in place to the sharing and exchange of information with respect to both ML and the underlying predicate offenses. Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts. Lack of controls and safeguards in place for the BNR to ensure that the information received by competent authorities is used only in an authorized manner. Lack of requirements in place to ensure that the information is not refused on the grounds that it involves fiscal matters. Requests for cooperation could be refused on

			<p>the grounds of professional privilege or legal professional secrecy.</p> <ul style="list-style-type: none"> • Lack of overall effectiveness.
Nine Special Recommendations			
SR.I	Implement UN instruments	PC	<ul style="list-style-type: none"> • Effective implementation was not established.
SR.II	Criminalize terrorist financing	NC	<ul style="list-style-type: none"> • The provision and collection of funds to individual terrorists and to terrorist organizations are not criminalized. • The direct and indirect collection and provision of funds is not covered under the TF offense. • Funding of terrorist acts is limited to acts defined in the treaties to which Rwanda is party, and therefore not all financing of terrorist acts are covered in the TF offense. • Lack of clarity as to whether the intentional element of the offense of TF can be inferred from objective factual circumstances. • Lack of effectiveness of the TF offense.
SR.III	Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> • Absence of measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. • Absence of measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts, or terrorist organizations.
SR.IV	Suspicious transaction reporting	NC	<ul style="list-style-type: none"> • There is no obligation to report funds suspected of being linked or related to, or to be used by individual terrorists, terrorist organizations, or those who finance terrorism.
SR.V	International cooperation	PC	<ul style="list-style-type: none"> • The deficiencies identified under Recommendations 1 and 2 may limit the scope of assistance that the authorities can provide. • Timeliness of responses was not established. • No consideration given to determining the best venue for prosecution of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • Effective implementation was not established. • There is no framework to allow for the

		<p>prosecution of a Rwandan national found guilty of ML or TF by a foreign State and whose extradition is refused on the basis of nationality only.</p> <ul style="list-style-type: none"> • There is no framework for cooperation in domestic prosecution of a Rwandan national whose extradition was refused on the grounds of nationality. • Extradition is not available for persons charged for money laundering and pending trial. • It is unclear whether a request for extradition could be executed without undue delay. • The effectiveness of the framework for extradition was not established. <p>With respect to the FIU and LEAs:</p> <ul style="list-style-type: none"> • Lack of TF criminalization limits the ability to provide cooperation by all concerned authorities. • Lack of overall effectiveness of the exchange of information relating to TF. • Lack of statistics. <p>With respect to supervisory authorities:</p> <ul style="list-style-type: none"> • Lack of arrangements in place to facilitate the sharing and exchange of information with respect to both TF and the underlying predicate offenses. • Lack of powers to allow all AML/CFT supervisors to conduct inquiries on behalf of foreign counterparts in TF matters. • Lack of controls and safeguards in place in the banking sector to ensure that the information received by competent authorities is used only in an authorized manner. • Lack of requirements in place to ensure that the information is not refused on the grounds that it involves fiscal matters. • Requests for cooperation could be refused on the grounds of professional privilege or legal professional secrecy. • Lack of overall effectiveness.
SR.VI AML/CFT requirements for money/value transfer services	NC	<ul style="list-style-type: none"> • The shortcomings identified in other recommendations related to CDD, sanctions, supervision, and regulation affect the implementation and effectiveness of this recommendation. • No list of agents maintained by the MVT service operator or provided to the authorities.

		<ul style="list-style-type: none"> • No sanctions available for failure to comply with AML/CFT requirements. • Informal money/value transfer system operating in Rwanda without effective monitoring.
SR.VII Wire transfer rules	NC	<ul style="list-style-type: none"> • No requirement for reporting entities conducting wire transfers, both domestic and international, of amounts equivalent to EUR/US\$1,000 or more to obtain and maintain full originator information. • No requirement for ordering financial institutions to verify the identity of the originator in accordance with Recommendation 5. • Lack of clarity as to whether originator information should be included in domestic wire transfers. • No requirement on intermediaries and beneficiary financial institutions in the payment chain to ensure that all originator information that accompanies a wire transfer is transmitted with the transfer. • No requirement on beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR. VII. • No supervisory framework to ensure compliance with the wire transfer requirements after the granting of the necessary license. • No sanctioning regime for failure to comply with wire transfer requirements. • Lack of effective implementation.
SR.VIII Nonprofit organizations	PC	<ul style="list-style-type: none"> • No review on the NPO sector has been conducted and lack of outreach to the NPO sector on the risks of FT. • Insufficient supervision/monitoring of the NPO sector, mostly domestic NGOs, which account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities. • Lack of requirement to maintain relevant information and make it available publicly and to appropriate authorities. • No requirement to maintain certain records

		<p>required under SR.VIII for a period of five years.</p> <ul style="list-style-type: none"> • Lack of effective mechanisms to share relevant information and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.
SR.IX	Cross-Border Declaration and Disclosure	<p>NC</p> <ul style="list-style-type: none"> • Declaration system is not in force yet and is not in line with the standard. • Exemption regarding the withdrawal of cash from banks could limit the effectiveness of the declaration system. • Lack of clear powers to request and obtain further information from the carrier with regard to the origin of the currency or the bearer negotiable instruments and their intended use. • Lack of powers to be able to stop or restrain currency and bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found. • Lack of proportionate sanctions for false disclosure, failure to disclose, or cross-border transportation for ML and TF purposes. • The requirement for the retention of records does not extend to all kinds of bearer negotiable instruments declared or otherwise detected, or the identification data of the bearer. • Absence of clear definition of bearer negotiable instruments. • Lack of implementation of the system transportation of currency and bearer negotiable instruments across all border points. • Lack of training on the best practice of implementing the requirement of SR.IX. • Effectiveness of the declaration system has not been established.

Table 12. Recommended Action Plan to Improve the AML/CFT System

FATF 40+9 Recommendations	Recommended Action (in order of priority within each section)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 and 2)	<ul style="list-style-type: none"> • Ensure that the concealment or disguise of the movement of property, knowing that such property is derived from an offense, also constitutes money laundering. • Clarify that prior conviction for the predicate offense is not a necessity to secure a money laundering conviction (i.e., when proving that property is the proceeds of crime). • Ensure that, in practice, intention can effectively be inferred from objective factual circumstances. • Ensure that criminal sanctions do not preclude the possibility of parallel civil or administrative proceedings if such proceedings are available.
2.2 Criminalization of Terrorist Financing (SR.II)	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Criminalize the provision and collection of funds to individual terrorists and to terrorist organizations. • Ratify and implement the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988, and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988. • Ensure that, in practice, intention can be inferred from objective factual circumstances. • Review the approach taken in applying the TF provisions to ensure that the legal framework in place is used more effectively.
2.3 Confiscation, freezing, and seizing of proceeds of crime (R.3)	<p>In order to comply fully with Recommendation 3, the authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Ensure that <i>bona fide</i> third parties can defend their rights at all stages of the confiscation process. • Effectively identify and trace property that is, or may become, subject to confiscation or is suspected of being the proceeds of crime. • Make effective use of the provisional and confiscation measures to fight ML, TF, and predicate crimes.
2.4 Freezing of funds used for	In conclusion, Rwanda did not implement the necessary

terrorist financing (SR.III)	<p>measures to freeze without delay funds or other assets of terrorists, those who finance terrorism, and terrorist organizations in accordance with the UNSCRs relating to the prevention and suppression of the financing of terrorist acts. The authorities are therefore recommended to do the following:</p> <ul style="list-style-type: none"> • Put in place effective laws and procedures to freeze terrorist funds or other assets or persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with UNSCR 1267 of 1999 and successor resolutions. Such freezing should take place without delay and without prior notice to the designated persons involved. • Put in place effective laws and procedures to freeze terrorist funds or other assets of persons designated in the context on UNSCR 1373 of 2001. Such freezing should take place without delay and without prior notice to the designated persons involved. • Develop effective laws and procedures to examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions. • Extend the freezing measures to all “funds and other property,” which would make it possible, pursuant to the aforementioned resolutions, to cover all financial assets and property of any kind, whether corporeal or incorporeal, movable or immovable, as well as legal documents or instruments of any kind evidencing title to or interest in such property. • Provide a clear and rapid mechanism for distributing the UNSCR lists nationally to the financial institutions and other persons or entities that may be holding targeted funds or other assets. • Provide clear guidance to FIs and other persons or entities that may be holding targeted funds or assets concerning their obligations in taking action under freezing mechanisms. • Introduce effective and publicly known procedures for timely review of requests to de-list designated persons and to unfreeze the funds or other property of persons or entities removed from the lists. • Introduce effective and publicly known procedures for unfreezing as promptly as possible the funds or other property of persons or entities inadvertently affected by a freezing mechanism, upon verification that the person or entity is not a designated person. • Introduce appropriate procedures for authorizing access to funds or other property frozen pursuant to Resolution S/RES/1267 (1999) and that have been determined to be necessary for basic expenses, the payment of certain
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	<p>types of fees, expenses, and service charges, as well as extraordinary expenses.</p> <ul style="list-style-type: none"> • Introduce appropriate procedures allowing a person or entity whose funds or other property were frozen to challenge the measures, including with ultimate recourse to a court. • Introduce a provision that would ensure protection for the rights of third parties acting in good faith. • Develop appropriate measures to monitor effectively the compliance with relevant legislation, rules, or regulations governing the obligations under SR.III and to impose civil, administrative, and criminal sanctions to failure to comply with such legislation, rules, or regulations.
<p>2.5 The Financial Intelligence Unit and its functions (R.26)</p>	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Provide reporting entities with guidance on the manner of reporting, including comprehensive reporting forms for all reporting entities other than banks (which have already received a reporting form). • Ensure that the FIU asks reporting entities for additional information when the information is correlated to received information. • Ensure that the FIU strengthens the quality of its analysis of STRs and other information, in particular by undertaking more in-depth analysis that could lead to improving the quality and quantity of disseminated reports. This could be achieved <i>inter alia</i> by (i) conducting analysis of information instead of investigation, (ii) strengthening the technical tools available to the analysts, and (iii) increasing the number of analysts with financial background and raising their awareness. • Ensure that the information held by the FIU is securely protected. • Ensure the independence of the FIU by, among other things, (i) putting in place proper safeguards for the sharing of information with the Advisory Board, (ii) securing adequate financial, human, and technical resources to conduct its core functions, and (iii) securing the information held at its premises. • Publish periodic annual reports with comprehensive statistics, typologies, and trends of money laundering and terrorist financing, as well as information regarding its activities. • Consider applying to Egmont Group membership. • Ensure that the FIU provides additional specialized and practical in-depth training to its employees. This training should cover, for example, predicate offenses to money laundering, analysis techniques, and familiarization with

	money laundering and terrorist financing typologies and risks and vulnerabilities.
2.6 Law enforcement, prosecution and other competent authorities (R.27 and 28)	<p>In order to comply fully with Recommendations 27 and 28, the authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Appoint and adequately resource dedicated financial investigators at the NPPA and RNP (other than the FIU) to deal with money laundering cases. • Provide LEAs with adequate powers to compel the production of documents and information from lawyers. • Investigate money laundering and/or terrorist financing offenses irrespective of whether the source of information emanates from the FIU or any other source. • Provide the judiciary with more independence by limiting the power of the Minister of Justice to intervene in the decisions of the Prosecutor General. • Provide AML/CFT training to all LEAs and in particular to all dedicated financial crime investigators and prosecutors. <p>The authorities should also consider the following:</p> <ul style="list-style-type: none"> • Making a more frequent use of special investigative techniques such as the monitoring of accounts and special investigative techniques to detect and investigate money laundering and its predicate crimes.
2.7 Cross-Border Declaration and Disclosure (SR.IX)	<p>The authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Ensure that the proposed declaration system has the characteristics described under SR.IX. • Remove the exemption related to the funds certified by a withdrawal slip issued by an accredited bank in Rwanda. • Amend the requirements to extend to the shipment of currency and bearer negotiable instruments through cargo containers and the mail. • Define the term "bearer negotiable instruments" to include monetary instruments in bearer form, such as travelers cheques and negotiable instruments (including cheques, promissory notes, and money orders) that are either in bearer form, endorsed without restriction made out to a fictitious payee, or otherwise in such a form that title can pass upon delivery; and incomplete instruments (including cheques, promissory notes, and money orders) signed, but with the payee's name omitted. • Ensure that competent authorities have the powers to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use in cases of suspicion of ML or TF, and the temporary restraint measures, and the adequate and uniform level of

	<p>sanctions.</p> <ul style="list-style-type: none"> Provide competent authorities with the authority to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of ML or TF may be found where there is a suspicion of ML or TF or where there is a false declaration. Once this system is established, competent authorities should be provided with training on the best practices paper for SR.IX.
3. Preventive Measures–Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5–8)	<p>The AML/CFT Law includes a number of basic CDD obligations, in particular the obligation to identify the customer. However, it fails to address all the elements required in the standard and, in a number of instances, is too general and lacks the necessary level of detail to be effective. Going forward, the requirements set forth under the AML/CFT Law should be better supported and complemented with sector-specific regulations and guidelines.</p> <p>Recommendation 5:</p> <p>Require in law or regulation all financial institutions (as defined in the FATF standard) to do the following:</p> <ul style="list-style-type: none"> Refrain from establishing or keeping anonymous accounts or accounts in fictitious names. Undertake CDD measures in the following cases: <ul style="list-style-type: none"> When carrying out occasional transactions that are wire transfers in the circumstances covered by the Interpretative Note to SR.VII; and When there is a suspicion of terrorist financing (in addition to the suspicion of money laundering already included in the law), without exceptions and regardless of the amounts involved. Establish the applicable threshold for undertaking CDD for occasional transactions. Identify their customers and verify that customer's identity using reliable, independent source documents, data, or information (identification data). Establish mechanisms for adequately verifying the power to bind the legal person or arrangement. Identify the beneficial owner and take reasonable

	<p>measures to verify the identity of the beneficial owner in line with the definition set forth under the standard, which should refer not only to the natural person(s) who ultimately owns or controls a customer and/or the persons on whose behalf a transaction is being conducted but also the persons who exercise ultimate effective control over a legal person or arrangement, including those who comprise the mind and management of a company.</p> <ul style="list-style-type: none"> • Conduct ongoing due diligence on the business relationship, which should include the scrutiny of transactions undertaken throughout the course of the business relationship and monitoring of the business relationship to ensure that documents, data, or information collected under the CDD process are kept up to date. <p>The authorities are further recommended to require in law, regulation, or other enforceable means financial institutions (as defined in the FATF standard) to do the following:</p> <ul style="list-style-type: none"> • Obtain information on the purpose and intended nature of the business relationship. • Perform enhanced due diligence for higher risk categories of customers, business relationships, or transactions. • Refuse to open an account, establish a business relationship, or conduct the transaction, and consider making an STR when they are unable to comply with the CDD requirements. • Terminate the business relationship and consider filing an STR when they have doubts about the veracity or adequacy of previously obtained customer identification data. • Apply CDD measures to existing customers that predate the AML/CFT Law on the basis of materiality and risk and conduct due diligence on such existing relationships at appropriate times. • Perform CDD measures on existing customers who hold anonymous accounts or accounts in fictitious names that predate the AML/CFT Law. <p>Recommendation 6:</p> <p>The authorities are recommended to provide examples of the prominent public functions that would fall under the definition of “political leader” (e.g., heads of state or of government; senior politicians; senior government, judicial, or military officials; senior executives of state-owned corporations; and important political party officials).</p> <p>The authorities are also recommended to require reporting</p>
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	<p>entities to do the following:</p> <ul style="list-style-type: none"> • Put in place appropriate risk management systems to determine whether a potential customer, a customer, or the beneficial owner is a PEP. • Obtain senior management approval to continue the business relationship when the customer or the beneficial owner is subsequently found to be or subsequently becomes a PEP. • Establish the source of wealth and the source of funds of beneficial owners identified as PEPs. • Conduct enhanced monitoring on that relationship. <p>Recommendation 7:</p> <p>With respect to cross-border correspondent relationships, require reporting entities to do the following:</p> <ul style="list-style-type: none"> • Gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine its reputation and quality of supervision. • Assess the respondent institution's AML/CFT controls. • Obtain approval from senior management before establishing correspondent relationship. • Documenting the respective obligations of each institution. <p>Recommendation 8:</p> <ul style="list-style-type: none"> • Establish measures including policies and procedures designed to prevent and protect financial institutions (as defined by the FATF standard) from money laundering and terrorist financing threats that may arise from new or developing technologies or specific CDD measures that apply to non-face-to-face business relationships and transactions. Authorities are encouraged to consult the Risk Management Principles for Electronic Banking issued by the Basel Committee in July 2003.
3.3 Third parties and introduced business (R.9)	<p>In order to comply with Recommendation 9, the authorities are recommended to do the following:</p> <ul style="list-style-type: none"> • Regulate reliance on intermediaries or third parties to perform elements of the CDD process, and ensure the following: <ul style="list-style-type: none"> • CDD measures performed by the intermediary or third parties are those listed under Criteria 5.3 to 5.6 of the Methodology; • The information collected by the third party may be immediately made available to reporting entities upon request without delay; and • The reporting entities are required to satisfy

	<p>themselves that the third party is regulated and supervised for and have measures in place to comply with CDD requirements in line with Recommendation 5.</p> <ul style="list-style-type: none"> • The ultimate responsibility for customer identification and verification remains with the reporting entities relying on the third party.
<p>3.4 Financial institution secrecy or confidentiality (R.4)</p>	<ul style="list-style-type: none"> • Ensure that the BNR is granted the power to exchange AML/CFT information with other domestic competent authorities. • Ensure that competent authorities share information on AML/CFT-related issues both at domestic and international levels. • Ensure that reporting entities are allowed to share information required under R.7, R.9, or SR.VII.
<p>3.5 Record keeping and wire transfer rules (R.10 and SR.VII)</p>	<p>Recommendation 10:</p> <ul style="list-style-type: none"> • Require financial institutions to maintain records on account files. • Ensure that all customer information required under R.5 is properly maintained. • Ensure that there is no restriction to timely access to customer and transaction records by competent authorities. <p>Recommendation SR.VII:</p> <ul style="list-style-type: none"> • Require financial institutions conducting wire transfers (both domestic and international) of EUR/US\$1,000 or more to obtain and maintain full originator information (i.e., the originator's name, account number, and the address) and to verify the identity of the originator in accordance with Recommendation 5. • Require each intermediary and beneficiary financial institution in the payment chain to ensure that all originator information that accompanies the wire transfer is transmitted with the transfer. • Require beneficiary financial institution to adopt effective risk-based procedures for identifying and handling wire transfers that are not accompanied by complete originator information and to consider the lack of complete originator information as a factor in assessing whether they are required to be reported to the FIU and consider restricting or terminating its business relationship with financial institutions that fail to meet SR.VII. • Monitor the compliance of financial institutions with the requirements set forth under SR.VII. • Ensure that there are effective, proportionate, and dissuasive sanctions for failure to comply with the wire

	transfer requirements.
3.6 Monitoring of transactions and relationships (R.11 and 21)	<p>Recommendation 11:</p> <ul style="list-style-type: none"> Require reporting entities to keep the findings of their analysis and examination of unusual transactions available for competent authorities and auditors. <p>Recommendation 21:</p> <ul style="list-style-type: none"> Ensure that the reporting requirement extends to combating terrorist financing. Ensure that reporting entities are advised of concerns about weaknesses in the AML/CFT systems of other countries. Extend the obligation on reporting entities to examine, as far as possible, the background and purpose of transactions that have no apparent economic or visible lawful purpose, and to keep their written findings of those transactions available to assist competent authorities and auditors for business relations and transactions with persons residing in countries that do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for the Rwandan AML/CFT Law. Establish mechanisms for applying counter-measures where a country continues not to apply or insufficiently applies the FATF Recommendations.
3.7 Suspicious transaction reports and other reporting (R.13, 14, 19, 25, and SR.IV)	<ul style="list-style-type: none"> Amend the reporting obligation to apply to all the predicate offenses designated by the FATF. Include insurance companies and insurance brokers/agents in the definition of reporting entity to ensure that the reporting obligation covers them as well. Require all reporting entities (as defined in the FATF standard) to report all transactions, including attempted transactions, when they suspect or have reasonable grounds to suspect that the funds are the proceeds of a criminal activity, or are related or linked to, or to be used for terrorism, terrorist acts, or terrorist organizations or those who finance terrorism. Ensure that competent authorities, and particularly the FIU, provide guidance to assist reporting entities on AML/CFT issues covered under the FATF recommendations, including, at a minimum, a description of ML and TF techniques and methods; and any additional measures that these institutions could take to ensure that their AML/CFT procedures are effective. Establish communication mechanisms between the BNR, the FIU, and the CMA, as well as a mechanism for providing feedback to reporting entities, including general and specific or case-by-case feedback.

	<ul style="list-style-type: none"> Consider providing guidance to reporting entities using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons. Although not a technical deficiency, it may be useful to clarify that the protection for good faith reporting extends to the members of the board of directors or managers, the board committees, the compliance officer, other officers of the reporting entities, and any agents or representatives of the reporting entities.
3.8 Internal controls, compliance, audit and foreign branches (R.15 and 22)	<ul style="list-style-type: none"> Require all reporting entities to establish, adopt, and maintain internal procedures, policies, and controls addressing CDD, record retention, detection of unusual and suspicious transactions, and the reporting obligation. Require reporting entities to designate the AML/CFT compliance officer at managerial level. Require reporting entities to ensure that the AML/CFT compliance officer and other appropriate staff have timely access to customer information, data and other CDD information, transaction records, and other relevant information. Require reporting entities to maintain an adequately resourced and independent audit function to test compliance with the procedures, policies and controls; and provide them with sufficient details to ensure that the scope of the internal audit function clearly includes AML/CFT audits and an overall assessment of the adequacy of the internal control systems and policies with respect to AML/CFT. Require reporting entities to develop and maintain ongoing employee training on AML/CFT matters, in particular to include information on current ML and TF techniques, methods, and trends; all aspects of the AML/CFT Law and obligations; and the requirements concerning CDD and suspicious transaction reporting. Although Recommendation 22 is not currently applicable to Rwanda, the authorities are also encouraged to set out provisions for reporting entities in the event that foreign branches and subsidiaries are established to ensure that these institutions observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that local (i.e., host country) laws and regulations permit; to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries that do not or insufficiently apply the FATF Recommendations; and where the minimum AML/CFT requirements of the home and host countries differ, to apply the higher standard, to the extent that local (i.e., host country) laws and

	regulations permit.
3.9 Shell banks (R.18)	<ul style="list-style-type: none"> Explicitly require reporting entities to satisfy themselves that when establishing correspondent relationships in the future, their respondent institutions in foreign countries do not permit their accounts to be used by shell banks.
3.10 The supervisory and oversight system–competent authorities and SROs Role, functions, duties and powers (including sanctions) (R.23, 29, 17, and 25)	<p>In order to comply with Recommendations 23, 17, 25, and 29, the authorities are recommended to do the following:</p> <p>Recommendation 23:</p> <ul style="list-style-type: none"> Designate a competent authority or authorities responsible for AML/CFT supervision of the reporting entities. Develop, adopt and implement a formal AML/CFT supervisory framework, including setting out the necessary activities for offsite surveillance and examination procedures for onsite visits. Ensure that, in the course of prudential supervision of financial institutions subject to the Core Principles, supervisors apply for AML/CFT purposes the prudential regulatory and supervisory measures that are also relevant to money laundering. <p>Recommendation 17:</p> <ul style="list-style-type: none"> Ensure that there is an adequate range of sanctions (administrative, civil, and financial) for noncompliance with the AML/CFT requirements to ensure that these are effective, proportionate, and dissuasive, and that they may be applied without undue limitation. Ensure that the range of sanctions not only applies to legal persons that are financial institutions or businesses but also to their directors and senior management. <p>Recommendation 25:</p> <ul style="list-style-type: none"> Consider providing guidance to reporting entities on their AML/CFT obligations using as a reference the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons, in particular with respect to suspicious transactions. <p>Recommendation 29:</p> <ul style="list-style-type: none"> Ensure that competent authorities like the BNR and the CMA have adequate powers to monitor and ensure compliance by financial institutions with the requirement to combat money laundering and terrorist financing, including powers to do the following: <ul style="list-style-type: none"> Conduct inspections to ensure compliance; Compel production of or to obtain access to all records, documents or information relevant to

	<ul style="list-style-type: none"> monitoring compliance; and Enforce and sanction financial institutions and their directors or senior management for failure to comply with or properly implement requirements to combat money laundering and terrorist financing.
3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> Address the shortcomings identified in recommendations 4–11, 13–15, and 21–23, and Special Recommendation VII, as applicable to this recommendation. Ensure that informal PSP systems currently operating in Rwanda are registered or licensed, and subject to the applicable FATF Recommendations and to adequate monitoring.
4. Preventive Measures– Nonfinancial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> The shortcomings identified under Recommendations 5, 6, and 8 to 11 in Section 3 are equally valid for DNFBPs. The preventive measures applicable to DNFBPs need to be expanded and tailored to the specificities of each business and profession. <p>In addition to the shortcomings identified under with regard to the financial sector, authorities are recommended to do the following:</p> <ul style="list-style-type: none"> Address the deficiencies identified under Recommendations 5, 6, and 8 to 11 above. Incorporate casinos as reporting entities under the AML/CFT Law. Designate the threshold called for by the AML/CFT Law for customer identification by casinos and dealers in precious metals and stones. Ensure that DNFBPs are subject to the preventive measures and record-keeping requirements in line with Recommendations 5, 6, 8, 9, 10, and 11. Ensure the effective implementation of the AML/CFT provisions by DNFBPs. Develop outreach campaigns specifically to raise awareness of CDD obligations and, more generally, to raise awareness of ML and TF risks in all of the DNBFP sectors. Although trusts services are not provided at the time of the assessment, in view of the upcoming entry in force of a new law allowing for the creation of Rwandan trusts and of the related services that will be provided, it is recommended that the authorities include trust service providers amongst the reporting entities subject to the AML/CFT Law.

4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> Require casinos to report suspicious transactions to the FIU. Ensure that the carve-out for legal and professional secrecy is limited to information (a) obtained in the course of ascertaining the legal position of a client, or (b) in performing their tasks of defending or representing that client in or concerning judicial, administrative, arbitration, or mediation proceedings. Ensure that all DNFBPs are subject to and effectively implement the requirements under Recommendations 13, 14, 15, and 21.
4.3 Regulation, supervision, monitoring, and sanctions (R.17, 24, and 25)	<ul style="list-style-type: none"> Ensure that the FIU has adequate capacity (in terms of resources and expertise) to conduct its supervisory functions, or reconsider the current framework for supervision of DNFBPs. Introduce a sanctioning regime for noncompliance with the AML/CFT obligations applicable to DNFBPs. Ensure that the designated competent authorities or SROs responsible for monitoring have adequate powers and resources to perform their functions. Increase awareness among all DNFBP categories. Provide guidance to assist DNFBPs implement and comply with their respective AML/CFT requirements. Provide feedback to DNFBPs on current techniques, methods, and trends or sanitized examples of actual ML and TF cases.
4.4 Other designated non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> Conduct a risk assessment of non-financial businesses and professions (other than DNFBPs) that could be used for or exposed to potential ML and TF activities in Rwanda. On the basis of the results of the risk assessment, introduce measures to reduce reliance on cash. Apply Recommendations 5, 6, 8–11, 13–15, 17, and 21 to non-financial businesses and professions (other than DNFBPs) that are at risk of being misused for ML and TF, in line with the results of the risk assessment. Encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to ML.
5. Legal Persons and Arrangements and Non-Profit Organizations	
5.1 Legal Persons–Access to beneficial ownership and control information (R.33)	<ul style="list-style-type: none"> Take additional steps to prevent the misuse of legal persons established in Rwanda by ensuring that there is adequate transparency concerning their beneficial ownership and control.
5.2 Legal Arrangements–Access to	<ul style="list-style-type: none"> Despite the fact that this Recommendation is considered

beneficial ownership and control information (R.34)	to be non-applicable to Rwanda at the time of this assessment, in light of the upcoming entry into force of a new law allowing for the creation of Rwanda trusts, it is recommended that the authorities take all necessary steps to prevent the misuse of the Rwandan trust for money laundering or terrorist financing purposes, and ensure that adequate, accurate, and timely information on these trusts (including information on the settler, trustee, and beneficiaries) can be obtained by competent authorities in a timely fashion, and to facilitate access to that information by reporting entities. The authorities are in particular recommended to consider the examples provided in the FATF methodology.
5.3 Non-profit organizations (SR.VIII)	<ul style="list-style-type: none"> • Use all sources of available information to undertake a domestic review on the NPOs' activities, size, and other relevant features of the NPO sector for the purpose of identifying the features and types of NPOs that are at risk of being misused for terrorist financing by virtue of their activities or characteristics. • Conduct outreach programs focused on raising awareness on the risks of terrorist abuse and the measures available to protect against such abuses directed to the entire NPO sector. • Effectively monitor those NPOs that account for a significant portion of the financial resources under control of the sector, and a substantial share of the sector's international activities. • Require NPOs to maintain information on related to the identity of person(s) who own, control, or direct their activities, including senior officers and board members, or to make it available through appropriate authorities and make such information as well as information on the NPOs' purpose and stated activities and objectives publicly available. • Review the NPOs' legislation to require NPOs to maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions that are sufficiently detailed to verify that funds have been spent in a manner consistent with the purpose and objectives of the organization. • Put in place effective mechanisms to share relevant information, target, and promptly investigate terrorist abuse of NPOs among all levels of appropriate authorities that hold relevant information on NPOs.
6. National and International Cooperation	
6.1 National cooperation and	<ul style="list-style-type: none"> • Put in place effective mechanisms between policy

coordination (R.31)	<p>makers, the FIU, LEAs, and supervisors, which will enable them to cooperate and, where appropriate, coordinate domestically with each other concerning the development and implementation of policies and activities to combat ML and TF.</p> <ul style="list-style-type: none"> • Ensure that the FIU, LEAs, and supervisory authorities effectively exchange information on AML/CFT issues. • Develop comprehensive statistics in the relevant areas of the fight against ML and TF (including statistics on domestic investigations; prosecutions; property frozen, seized, and confiscated; convictions; and international cooperation, etc.). • Review the effectiveness of the AML/CFT system on a regular basis.
6.2 The Conventions and UN Special Resolutions (R.35 and SR.I)	<p>Recommendation 35:</p> <ul style="list-style-type: none"> • Fully implement the provisions of the Vienna and Palermo Conventions, the ICSFT, and the relevant UNSCRs. <p>SR.I:</p> <ul style="list-style-type: none"> • Implement fully the relevant UNSCRs.
6.3 Mutual Legal Assistance (R.36, 37, 38, and SR.V)	<p>Recommendation 36:</p> <ul style="list-style-type: none"> • Consider devising a mechanism for determining the best venue of jurisdiction of defendants in the interest of justice in cases that are subject to prosecution in more than one country. • Ensure that information obtained by lawyers may be obtained upon request from another State in the circumstances envisaged in the standard. <p>Recommendation 38:</p> <ul style="list-style-type: none"> • Establish a framework to freezing, seizing, and confiscating and sharing the proceeds of predicate offenses in response to a request from a foreign country.
6.4 Extradition (R. 39, 37, and SR.V)	<ul style="list-style-type: none"> • Ensure that Rwandan nationals who are found guilty of money laundering or terrorist financing by a foreign State and whose extradition to that State is refused by Rwanda on the grounds of nationality only are subject to prosecution in Rwanda. • If necessary to ensure the efficiency of this process, establish a framework for cooperation with the foreign State that had originally requested the extradition of the Rwandan national. • Ensure that extradition is available for persons charged for money laundering or terrorist financing and pending trial. • Ensure that extradition requests may be handled without

	undue delay.
6.5 Other Forms of Cooperation (R.40 and SR.V)	<ul style="list-style-type: none"> • Ensure that the FIU shares information with its foreign counterparts. • Provide LEAs with the power to conduct investigations on behalf of foreign counterparts. • Allow for the sharing of information and documents detained by lawyers when conducting transactions for their client concerning the activities set under Recommendation 12. • Maintain statistics on the number of requests for assistance made or received by law enforcement authorities, the FIU, and supervisors, including whether the request was granted or refused and the response time. • Ensure that all AML/CFT supervisors have arrangements in place to share and exchange information with respect to both ML and the underlying predicate offenses. • Grant powers to all AML/CFT supervisors to allow for the conduct of inquiries on behalf of foreign counterparts. • Establish controls and safeguards for the AML/CFT supervisor for banks and other entities licensed by the BNR, FIU, and LEAs to ensure that the information received by competent authorities is used only in an authorized manner. • Ensure that requests for cooperation are not refused on the grounds of professional privilege or legal professional secrecy.
7. Other Issues	
7.1 Resources and statistics (R. 30 and 32)	<p>Recommendation 30:</p> <ul style="list-style-type: none"> • Ensure that all competent authorities are adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions, keeping in mind that adequate structuring includes the need for sufficient operational independence and autonomy to ensure freedom from undue influence or interference. • Ensure that staff of competent authorities are provided with adequate training on AML/CFT. <p>Recommendation 32:</p> <ul style="list-style-type: none"> • Review the effectiveness of the AML/CFT system on a regular basis. • Ensure that all competent authorities maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT framework

	in line with the FATF standard.
7.2 Other relevant AML/CFT measures or issues	None.
7.3 General framework–structural issues	None.

Annex 1. Authorities' Response to the Assessment

No response provided.

Annex 2. List of Bodies Met During the On-site Visit

Ministries

1. Ministry of Commerce and Industry
2. Ministry of Justice
3. Ministry of Foreign Affairs

Criminal Justice and Operational Agencies

4. Financial Investigation Unit
5. Judiciary
6. National Police of Rwanda, Commission of Intelligence
7. National Police of Rwanda, Financial Crime Unit
8. National Police of Rwanda, Interpol unit and International Cooperation Unit
9. National Public Prosecution Authority
10. Office of the Ombudsman

Financial and Nonfinancial Supervisory Bodies and Other Authorities

11. Capital Market Authority
12. National Bank of Rwanda
13. Office of the Registrar General
14. Rwanda Governance Board
15. Rwanda Revenue Authority
16. Stock Exchange

Private Sector Bodies

17. Bar association (Ordre des Avocats au Barreau de Kigali)
18. Trust Law Chambers

Private Sector Representatives

19. Audit firms
20. Banks
21. Brokers
22. Casinos and gaming hall
23. Foreign Exchange Bureaus
24. Insurance companies
25. Lawyers
26. Microfinance Institutions
27. Money and Value Transfer Service Providers
28. Real Estate Agents
29. Traders in items of significant value
30. Transparency International Rwanda

Annex 3. List of All Laws, Regulations, and Other Material Received

Constitution
Constitution of the Republic of Rwanda (2003)
Laws
Criminal Code of 1977 (in French only)
Law N°03/1997 of 19/03/1997 establishing the Bar in Rwanda (in French only)
Law No. 20/2000 of 26/7/2000 relating to nonprofit making organisations
Law N°23/2003 on the prevention, suppression and punishment of corruption
Law N°13/2004 of 17/05/2004 relating to the code of criminal procedure, O.G special N° of 30/07/2004
Law N°55/2007 of 30/11/2007 governing the Central Bank of Rwanda (the Central Bank law)
Law No. 50/2007 providing for the establishment, organisation and functioning of cooperative organisations in Rwanda
Law N°07/2008 of 08/04/2008 concerning organisation of banking (Banking law)
Law No. 11/2008 on the Institute of Certified Public Accountants of Rwanda
Law N°40/2008 of 26/08/2008 establishing the organisation of Micro Finance activities
Law N°45/2008 of 09/09/2008 on counter terrorism (the CT law)
Law N°47/2008 of 09/09/2008 on prevention and penalising the crime of money laundering and financing terrorism (AML/CFT law)
Law No. 52/2008 governing the organisation of the insurance business (the Insurance law)
Law N°07/2009 of 27/04/2009 relating to companies
Law N°33/2009 of 18/11/2009 relating to arms
Law N°03/2010 of 26/02/2010 concerning payment system
Law N°46/2010 of 14/12/2010 determining the powers, responsibilities, organization and functioning of the Rwanda National Police
Law N°01/2011 of 10/02/2011 regulating capital market in Rwanda

Law N°11/2011 of 18/05/2011 establishing the Capital Market Authority (CMA) and determining its mission, powers, organisation and functioning
Law N°40/2011 of 20/09/2011 regulating collective investment schemes in Rwanda
Law N°58/2011 of 31/12/2011 governing the gaming activities
Law N°03/2012 of 15/02/2012 governing narcotic drugs, psychotropic substances and precursors in Rwanda
Law N°04/2012 governing the organisation and the functioning of national non-governmental organisations
Law N°05/2012 of 17/02/2012 governing the organisation and functioning of international non-governmental organisations
Law N°06/2012 of 17/02/2012 determining organisation and functioning of religious-based organisations
Organic Law No. 1/2012.OL of 2/5/2012 instituting the penal code (the PC)
Presidential Orders
Presidential Order N°27/2011 of 30/05/2011 determining the organisation, functioning and mission of the financial investigation unit
Presidential Order N°46/01 of 29/07/2011 governing modalities for the recruitment, appointment and nomination of public servants
Presidential Order N°119/01 of 09/12/2011 modifying and completing presidential order N°27/01 of 30/05/2011 determining the organisation, functioning and mission of the financial investigation unit
Regulations
Internal Regulation of the Kigali Bar on the application of Law N°03/1997 of 19/03/1997 (in French only)
Regulation N°03/2008 of the National Bank of Rwanda on licensing conditions of banks
Regulation N°02/2009 of the National Bank of Rwanda on the organisation of microfinance activity
Regulation N°05/2009 of 29/07/2009 of the National Bank of Rwanda on licensing requirements and other requirements for carrying out insurance business
Regulation N°02/2010 of the National Bank of Rwanda governing payment services providers
Regulation N°05/2010 of 27/12/2010 of the National Bank of Rwanda relating to the licensing criteria

of operating payment and securities settlement systems
Regulation N°06/2012 of 21/06/2012 of the National Bank of Rwanda governing payment services providers
Other
National Bank of Rwanda Onsite Inspection Procedures 2010
National Bank of Rwanda Anti-Money Laundering Policy, May 2012

Annex 4. Copies of Key Laws, Regulations, and Other Measures

1. Law N°47/2008 of 09/09/2008 on prevention and penalising the crime of money laundering and financing terrorism (AML/CFT law)
2. Law N°45/2008 of 09/09/2008 on counter terrorism (the CT law)
3. Extracts of the Organic Law No. 1/2012.OL of 2/5/2012 instituting the penal code (the PC): Preamble; Articles 5, 22, 23, 16, 27, 97, 98, 99, 169 to 175, 652, 653 and 656.
4. Extracts from the Law N°13/2004 of 17/05/2004 relating to the code of criminal procedure, O.G special N° of 30/07/2004: Articles 26, 131, 132 and 138.
5. Extracts from the Law N°55/2007 of 30/11/2007 governing the Central Bank of Rwanda (the Central Bank law): Articles 6 and 53.
6. Extracts of the Law N°07/2008 of 08/04/2008 concerning organisation of banking (Banking law): Articles 1, 3, 4, 5, 9, 58 and 61.
7. Presidential Order N°27/2011 of 30/05/2011 determining the organisation, functioning and mission of the financial investigation unit

(see additional attachment)

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Ibirimo/Summary/Sommaire

A. Amategeko/Laws/Lois

N°47/2008 ryo kuwa 09/09/2008

Itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.....3
N°47/2008 of 09/09/2008

Law on prevention and penalising the crime of money laundering and financing terrorism...3

N°47/2008 du 09/09/2008

Loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme.....3

N°56/2008 ryo kuwa 10/09/2008

Itegeko rigenga inzibutso n'amarimbi by'abazize jenoside yakorewe Abatutsi mu Rwanda..62

N°56/2008 of 10/09/2008

Law governing memorial sites and cemeteries of victims of the genocide against the Tutsi in Rwanda.....62

N°56/2008 du 10/09/2008

Loi portant organisation des sites mémoriaux et cimetières pour les victimes du génocide perpétré contre les Tutsi au Rwanda.....62

N°57/2008 ryo kuwa 10/09/2008

Itegeko ryerekeye kubuza ikorwa, itumizwa, ikoreshwa n'icuruzwa ry'amasashe akozwe muri pulasitiki mu Rwanda.....78

N°57/2008 of 10/09/2008

Law relating to the prohibition of manufacturing, importation, use and sale of polythene bags in Rwanda.....78

N°57/2008 du 10/09/2008

Loi portant interdiction de la fabrication, l'importation, l'utilisation et la commercialisation des sachets en plastique au Rwanda.....78

N°68/2008 ryo kuwa 30/12/2008

Itegeko ryemerera kwemeza burundu Amasezerano hagati ya Guverinoma ya Repubulika y'u Rwanda n'Umuryango w'Abibumbye, arebana no kurangiza imanza zaciwe n'Urukiko Mpanabyaha Mpuzamahanga rwashyiriweho u Rwanda, yashyiriweho umukono i Kigali mu Rwanda kuwa 04 Werurwe 2008.....86

N°68/2008 of 30/12/2008

Law authorising the ratification of the Agreement between the Government of the Republic of Rwanda and the United Nations on the enforcement of sentences of the International Criminal Tribunal for Rwanda, signed at Kigali in Rwanda on 04 March 200886

N°68/2008 du 30/12/2008

Loi autorisant la ratification de l'Accord entre le Gouvernement de la République du Rwanda et l'Organisation des Nations Unies relatif à l'exécution des peines prononcées par le Tribunal Pénal International pour le Rwanda, signé à Kigali au Rwanda le 04 mars 2008.....86

B. Iteka rya Perezida/ Presidential Order/Arrêté Présidentiel

N°62/01 ryo ku wa 05/12/2008

Iteka rya Perezida rivugurura kandi ryuzuza Iteka rya Perezida n° 19/01 ryo kuwa 01/10/2001 rishyiraho ikiguzi cy'Igazeti ya Leta ya Repubulika y'u Rwanda n'inyandiko ziyyitangarizwamo.....90

N°62/01 of 05/12/2008

Presidential Order modifying and complementing Presidential Order n°19/01 of 01/10/2001 determining the subscription and advertising rates for the Official Gazette of the Republic of Rwanda.....90

N°62/01 du 05/12/2008

Arrêté Présidentiel modifiant et complétant l'Arrêté Présidentiel n° 19/01 du 01/10/2001 portant fixation du tarif des abonnements et insertions au Journal Officiel de la République du Rwanda.....90

C. Amateka ya Minisitiri w'Intebe/ Prime Minister's Orders/Arrêtés du Premier Ministre

N°16/03 ryo kuwa 09/02/2009

Iteka rya Minisitiri w'Intebe rishyiraho Umukuru Wungirije w'Ubuyobozi bw'Urwego rushinzwe iterambere mu Rwanda ushinzwe guteza imbere ubumenyi bw'abakozi no kongerera ubushobozi inzego.....95

N°16/03 of 09/02/2009

Prime Minister's Order appointing the Deputy Chief Executive Officer of Rwanda Development Board in charge of human resources and institutional capacity building.....95

N°16/03 du 09/02/2009

Arrêté du Premier Ministre portant nomination du Directeur Général Adjoint de l'Office pour la Promotion du Développement au Rwanda chargé du développement des ressources humaines et des capacités institutionnelles.....95

N°17/03 ryo kuwa 09/02/2009

Iteka rya Minisitiri w'Intebe rishyiraho Umukuru Wungirije w'Ubuyobozi bw'Urwego rushinzwe iterambere mu Rwanda ushinzwe guteza imbere ibikorwa by'abikorera.....99

N°17/03 of 09/02/2009

Prime Minister's Order appointing the Deputy Chief Executive Officer of Rwanda Development Board in charge of promotion of Private Sector.....99

N°17/03 du 09/02/2009

Arrêté du Premier Ministre portant nomination du Directeur Général Adjoint de l'Office pour la Promotion du développement au Rwanda chargé de la promotion du Secteur Privé.....99

ITEGEKO N°47/2008 RYO KUWA 09/09/2008
RIKUMIRA KANDI RIHANA IYEZANDONKE
NO GUTERA INKUNGA ITERABWOBA

LAW N°47/2008 OF 09/09/2008 ON
PREVENTION AND PENALISING THE
CRIME OF MONEY LAUNDERING AND
FINANCING TERRORISM

LOI N°47/2008 DU 09/09/2008 RELATIVE
A LA PREVENTION ET A LA
REPRESSION DU BLANCHIMENT DE
CAPITAUX ET DU FINANCEMENT DU
TERRORISME

ISHAKIRO

TABLE OF CONTENTS

TABLE DES MATIERES

UMUTWE WA MBERE: INGINGO RUSANGE

CHAPTER ONE: GENERAL PROVISIONS

**CHAPITRE PREMIER : DISPOSITIONS
GÉNÉRALES**

Ingingo ya mbere: Ikigamijwe n'iri tegeko

Article One : Purpose of this Law

Article premier: Objet de la présente loi

Ingingo ya 2: Ibisobanuro by'amagambo

Article 2: Definitions of terms

Article 2: Définitions des termes

Ingingo ya 3: Ushinzwe gutanga amakuru

Article 3: Reporting entity

Article 3 : Entité déclarante

**Ingingo ya 4: Igikorwa cy'iterabwoba
no gutera inkunga iterabwoba**

**Article 4: Act of terrorism and financing
terrorism**

**Article 4 : Acte de terrorisme et du
financement du terrorisme**

**Ingingo ya 5: Amafaranga cyangwa imitungo
bitemewe**

Article 5: Illicit money or assets

Article 5 : Capitaux ou biens illicites

**UMUTWE WA II: GUKORERA MU MUCYO
IMIRIMO IJYANYE N'IMARI**

**CHAPTER II: TRANSPARENCY IN
FINANCIAL TRANSACTIONS**

**CHAPITRE II : TRANSPARENCE DES
OPÉRATIONS FINANCIERES**

Ingingo ya 6 Iyoherezwa ry'amafaranga

Article 6: Money transfer

Article 6 : Transfert des fonds

**Ingingo ya 7: Imenyekanisha ry'amafaranga ku
mupaka**

Article 7: Cash declaration at the border

**Article 7 : Déclaration d'espèces à la
frontière**

Ingingo ya 8: Ibanga ry'akazi

Ingingo ya 9: Guca banki za baringa na konti zitagira amazina n'izindi ngamba z'ikumira

Ingingo ya 10: Umwirondoro w'abakiriya

Ingingo ya 11: Imyirondoro ya za "kazino", inzu z'imikino n'iy' abakiriya bazo

Ingingo 12: Imyirondoro y'indi mishinga n'imyuga bitari iby'imari

Ingingo ya 13: Imyirondoro y'abakiriya badahoraho

Ingingo ya 14: Imyirondoro ya nyir'ubwite

Ingingo ya 15: Gukurikiranira hafi ibikorwa bimwe na bimwe ku buryo bwhariye.

Ingingo ya 16: Inshingano y'ubushishozi ku byerekeye umuntu ugaragara mu rwego rwa politiki

Ingingo ya 17: Ishyingurwa ry'inyandiko

Ingingo ya 18: Imenyekanisha ry'amafaranga yishyuriweho

Ingingo ya 19: Gahunda z'abashinzwe gutanga amakuru zerekeye kurwanya iyezandonke

Article 8: Professional secrecy

Article 9: Prohibition of fictive banks and anonymous accounts and other preventive measures

Article 10: Identification of customers

Article 11: Identification of casinos, gaming halls and their customers

Article 12: Identification of other non-financial businesses and professions

Article 13: Identification of occasional customers

Article 14: Identification of the owner

Article 15: Special monitoring of certain transactions.

Article 16: Due diligence related to a political Leader

Article 17: Record-keeping

Article 18: Declaration of cash transactions

Article 19: Programs of reporting authorities

Article 8: Secret professionnel

Article 9: Interdiction des banques fictives et des comptes anonymes et autres mesures de prévention

Article 10: Identification des clients

Article 11: Identification des casinos, établissements de jeux et de leurs clients

Article 12: Identification d'autres entreprises et professions non financières

Article 13: Identification des clients occasionnels

Article 14: Identification du propriétaire

Article 15: Suivi spécial de certaines opérations

Article 16: Devoir de vigilance relatif à une haute personnalité politique

Article 17: Conservation des documents

Article 18: Déclaration des opérations réglées au comptant

Article 19: Programmes des entités déclarantes

**UMUTWE WA III: GUKUMIRA, GUTAHURA
IYEZANDONKE N'INKUNGA
Z'ITERABWOBA**

Ingingo ya 20: Ishyirwaho ry'Ishami ry'Iperereza ku mari, imiterere, imikorere n'inshingano byaryo

Ingingo ya 21: Imenyekanisha ry'ibikorwa n'amafaganga bikemangwa

Ingingo ya 22: Inshingano zo kutamena amabanga.

Ingingo ya 23: Urutonde rw'abakora iterabwoba n'abaritera inkunga

Ingingo ya 24: Ibanga

Ingingo ya 25: Ihagarika ry'agateganyo ry'umutungo cyangwa ry'ibikorwa

Ingingo ya 26: Uburyo bwihariye bw'iperereza

Ingingo ya 27: Isonerwa ry'uburyozwe

**UMUTWE WA IV: UBUFATANYE
MPUZAMAHANGA**

Ingingo ya 28: Ubufatanye n'izindi Leta

Ingingo ya 29: Ikigamijwe mu gusaba ubufatanye

**CHAPTER III : PREVENTION AND
DETECTION OF MONEY LAUNDERING
AND FINANCING OF TERRORISM**

Article 20: Establishment, organization, functioning and mission of the Financial Investigation Unit

Article 21: Declaration of suspicious transaction and funds

Article 22 : Obligation of discretion

Article 23: List of terrorists and their financiers

Article 24: Confidentiality

Article 25: Temporary freezing of assets and transactions

Article 26: Special investigative techniques

Article 27: Exemption of liability

**CHAPITERE IV: INTERNATIONAL
COOPERATION**

Article 28: Cooperation with other States

Article 29: Purpose of the request for mutual assistance

**CHAPITRE III : PREVENTION ET
DETECTION DU BLANCHIMENT DE
CAPITAUX ET DU FINANCEMENT DU
TERRORISME**

Article 20: Création, organisation, fonctionnement et mission de la Cellule de Renseignements Financiers

Article 21 : Déclaration des transactions et fonds suspects.

Article 22 : Obligation de discréption

Article 23 : Liste des terroristes et de leurs bailleurs de fonds

Article 24 : Confidentialité

Article 25 : Gel temporaire des biens et des opérations

Article 26: Techniques d'enquête spéciales

Article 27: Exemption de responsabilité

**CHAPITRE IV : COOPERATION
INTERNATIONALE**

Article 28: Coopération avec les autres Etats

Article 29: Objet de demande d'entraide

<u>Ingingo ya 30</u> : Kutemera ubufatanye	<u>Article 30</u> : Refusal of cooperation	<u>Article 30</u> : Refus de coopération
<u>Ingingo ya 31</u> : Gusaba gukora anketi n'iperereza	<u>Article 31</u> : Request for investigative and trial measures	<u>Article 31</u> : Demande d'enquête et d'instruction
<u>Ingingo ya 32</u> : Gusaba ibyemezo bishingana by'agateganyo	<u>Article 32</u> : Request for protective measures	<u>Article 32</u> : Demande de mesures conservatoires
<u>Ingingo ya 33</u> : Gusaba ubunyage	<u>Article 33</u> : Request for dispossession	<u>Article 33</u> : Demande de confiscation
<u>Ingingo ya 34</u> : Iherezzo ry'umutungo wanyazwe	<u>Article 34</u> : Fate of dispossessed property	<u>Article 34</u> : Sort des biens confisqués
<u>Ingingo ya 35</u> :Gusaba guhererekanya abanyabyaha	<u>Article 35</u> : Requests for extradition	<u>Article 35</u> : Demande d'extradition
<u>Ingingo ya 36</u> : Icyaha cyemeranywaho n'ibihugu byombi	<u>Article 36</u> : Dual incrimination	<u>Article 36</u> : Double incrimination
<u>Ingingo ya 37</u> : Impamvu zitegetswe zo kwanga guhererekanya abanyabyaha	<u>Article 37</u> : Compulsory grounds for refusing extradition	<u>Article 37</u> : Motifs obligatoires de refus d'extradition
<u>Ingingo ya 38</u> : Impamvu zidategetswe zo kwanga ihererekanya	<u>Article 38</u> : Optional grounds for refusing extradition	<u>Article 38</u> : Motifs facultatifs de refus d'extradition
<u>Ingingo ya 39</u> : Koherezwa cyangwa gucirwa urubanza	<u>Article 39</u> : Aut dedere aut judicare	<u>Article 39</u> : Aut dedere aut judicare
<u>Ingingo ya 40</u> : Isubiza ry'umutungo	<u>Article 40</u> : Return of assets	<u>Article 40</u> : Remise des biens
<u>UMUTWE WA V</u> : INGINGO RUSANGE ZEREKERANYE NO GUSABA UBUFATANYE N'IYOHEREZWA RY'ABAKURIKIRANYWEHO IBYAH	<u>CHAPTER V</u> : GENERAL PROVISIONS CONCERNING THE REQUESTS FOR MUTUAL ASSISTANCE AND EXTRADITION	<u>CHAPITRE V</u> : DISPOSITIONS COMMUNES AUX DEMANDES D'ASSISTANCE MUTUELLE ET D'EXTRADITION
<u>Ingingo ya 41</u> : Kohereza isaba	<u>Article 41</u> : Transmission of request	<u>Article 41</u> : Transmission de la demande

<u>Ingingo ya 42:</u> Ibikubiye mu nyandiko zisaba	<u>Article 42:</u> Contents of the requests	<u>Article 42:</u> Contenu des demandes
<u>Ingingo ya 43:</u> Isesengura ry'isaba	<u>Article 43:</u> Requests processing	<u>Article 43:</u> Traitement des demandes
<u>Ingingo ya 44:</u> Amakuru y'innyongera	<u>Article 44:</u> Additional information	<u>Article 44:</u> Compléments d'information
<u>Ingingo ya 45:</u> Gusaba ko haba ibanga	<u>Article 45:</u> Request for confidentiality	<u>Article 45:</u> Demande de confidentialité
<u>Ingingo ya 46:</u> Kudakoresha ibimenyetso mu zindi gahunda	<u>Article 46:</u> Prohibition of using pieces of evidence for other purposes	<u>Article 46:</u> Non utilisation des éléments de preuve à d'autres fins
<u>Ingingo ya 47:</u> Kwishyura imirimo yakozwe	<u>Article 47:</u> Payment of charges	<u>Article 47:</u> Imputation des frais
<u>UMUTWE WA VI: IBIHANO N'IBINDI BYEMEZO</u>	<u>CHAPTER VI: PENALTIES AND OTHER MEASURES</u>	<u>CHAPITRE VI: SANCTIONS PENALES ET AUTRES MESURES.</u>
<u>Ingingo ya 48:</u> Iyezandonke no gutera inkunga iterabwoba	<u>Article 48:</u> Money laundering and financing of terrorism	<u>Article 48:</u> Blanchiment de capitaux et financement du terrorisme
<u>Ingingo ya 49:</u> Ubufatanyacyaha mu iyezandonke cyangwa gutera inkunga iterabwoba	<u>Article 49:</u> Complicity in money laundering or terrorism financing	<u>Article 49:</u> Complicité ou entente en vue du blanchiment de capitaux ou de financement du terrorisme
<u>Ingingo ya 50:</u> Ibihano biteganyirijwe umuryango	<u>Article 50:</u> Penalties for legal person	<u>Article 50:</u> Sanctions applicables aux personnes morales
<u>Ingingo ya 51:</u> Impamvu nkomezacyaha	<u>Article 51:</u> Aggravating circumstances	<u>Article 51:</u> Circonstances aggravantes
<u>Ingingo ya 52:</u> Impamvu nyoroshyacyaha	<u>Article 52:</u> Mitigating circumstances	<u>Article 52:</u> Circonstances atténuantes
<u>Ingingo ya 53:</u> Ibihano ku bindi byaha	<u>Article 53:</u> Penalties for other offences	<u>Article 53:</u> Peines pour d'autres infractions
<u>Ingingo ya 54:</u> Kutubahiriza itegeko	<u>Article 54:</u> Failure to perform the law	<u>Article 54:</u> Inexécution de la loi
<u>Ingingo ya 55:</u> Icyemezo gishingana	<u>Article 55:</u> Protective measure	<u>Article 55:</u> Mesure conservatoire

by'agateganyo

<u>Ingingo ya 56:</u> Ifatira	<u>Article 56:</u> Seizure	<u>Article 56:</u> Saisie
<u>Ingingo ya 57:</u> Ubunyage	<u>Article 57:</u> Confiscation	<u>Article 57:</u> Confiscation
<u>Ingingo ya 58:</u> Icyemezo cy'ubunyage	<u>Article 58:</u> Order of confiscation	<u>Article 58:</u> Ordonnance de confiscation
<u>Ingingo ya 59:</u> Ubunyage bw'umutungo w'umutwe w'abagizi ba nabi	<u>Article 59:</u> Confiscation of property of a criminal organization	<u>Article 59:</u> Confiscation des biens d'une association criminelle
<u>Ingingo ya 60:</u> Itakazagaciro ry'ibikorwa	<u>Article 60:</u> Nullity of certain acts	<u>Article 60:</u> Nullité de certains actes
<u>Ingingo ya 61:</u> Iherezo ry'umutungo wanyazwe	<u>Article 61:</u> Fate of confiscated property	<u>Article 61:</u> Sort des biens confisqués
<u>UMUTWE WA VII:</u> INGINGO ZISOZA	<u>CHAPTER VII:</u> FINAL PROVISIONS	<u>CHAPITRE VII :</u> DISPOSITIONS FINALES
<u>Ingingo ya 62:</u> Ikurwaho ry'ingingo zinyuranyije n'iri tegeko	<u>Article 62:</u> Repealing provisions	<u>Article 62:</u> Disposition abrogatoire
<u>Ingingo ya 63:</u> Igihe itegeko ritangira gukurikizwa	<u>Article 63:</u> Commencement	<u>Article 63:</u> Entrée en vigueur

ITEGEKO N°47/2008 RYO KUWA 09/09/2008
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NO GUTERA INKUNGA ITERABWOBA

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LOI N°47/2008 DU 09/09/2008 RELATIVE
A LA PREVENTION ET A LA
REPRESSION DU BLANCHIMENT DE
CAPITAUX ET DU FINANCEMENT DU
TERRORISME

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République ;

INTEKO ISHINGA AMATEGEKO YEMEJE,
NONE NATWE DUHAMILJE, DUTANGAJE
ITEGEKO RITEYE RITYA, KANDI
DUTEGETSE KO RYANDIKWA MU
IGAZETI YA LETA YA REPUBLIKA Y'U
RWANDA.

THE PARLIAMENT HAS ADOPTED AND
WE SANCTION, PROMULGATE THE
FOLLOWING LAW AND ORDER IT BE
PUBLISHED IN THE OFFICIAL GAZETTE
OF THE REPUBLIC OF RWANDA.

LE PARLEMENT A ADOPTÉ ET NOUS
SANCTIONNONS, PROMULGUONS LA
LOI DONT LA TENEUR SUIT ET
ORDONNONS QU'ELLE SOIT PUBLIÉE
AU JOURNAL OFFICIEL DE LA
REPUBLIQUE DU RWANDA.

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo ku wa 05
Kamena 2008;

Umutwe wa Sena, mu nama yawo yo ku wa 14
Mata 2008;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u
Rwanda ryo ku wa 04 Kamena 2003, nk'uko
ryavuguruwe kugeza ubu, cyane cyane mu ngingo
zaryo, iya 25, iya 62, iya 66 iya 67, iya 88, iya 89,
iya 90, iya 92, iya 93, iya 95, iya 108, iya 118, iya
149, iya 169, iya 170, iya 171, iya 172, iya 173 iya
190 n'iya 201;

Ishingiye ku Masezerano Mpuzamahanga

THE PARLIAMENT:

The Chamber of Deputies, in its session of 05
June 2008;

The Senate, in its session of 14 April 2008;

Pursuant to the Constitution of the Republic of
Rwanda of 04 June 2003 as amended to date
especially in Articles 25, 62, 66, 67, 88, 89, 90,
92, 93, 95, 108, 118, 149, 169, 170, 171, 172,
173, 190 and 201 ;

Pursuant to the International Convention for the

LE PARLEMENT :

La Chambre des Députés, en sa séance du 05
juin 2008;

Le Sénat, en sa séance du 14 avril 2008;

Vu la Constitution de la République du Rwanda
du 04 juin 2003 telle que révisée à ce jour,
spécialement en ses articles 25, 62, 66, 67, 88,
89, 90, 92, 93, 95, 108, 118, 149, 169, 170, 171,
172, 173, 190 et 201 ;

Vu la Convention Internationale pour la

yerekeranye no guhana abatera inkunga iterabwoba, yemejwe n'Inama Rusange y'Umuryango w'Abibumbye ku wa 09 Ukuboza 1999, nk'uko yemejwe burundu n'Iteka rya Perezida n° 43/01 ryo ku wa 14/04/2002 ;

Ishingiye ku Masezerano y'Umuryango w'Ubumwe bw'Afurika yerekeye kwirinda no kurwanya iterabwoba yashyiriweho umukono i Alger, ku wa 13 Nyakanga 1999, nk'uko yemejwe burundu n'Iteka rya Perezida n° 39/01 ryo ku wa 14/04/2002 ;

Ishingiye ku Masezerano Mpuzamahanga yerekanye no kurwanya ubucuruzi butemewe bw'ibiyobyabwenge yemerejwe i New York n'Inama Rusange y'Umuryango w'Abibumbye yo mu w'1988 nk'uko yemejwe burundu n'Iteka rya Perezida n° 47/01 ryo ku wa 14/04/2002;

Ishingiye ku Masezerano Mpuzamahanga agamije kurwanya ubugizi bwa nabi mpuzamahanga buteguye yemerejwe i New York n'Inama Rusange y'Umuryango w'Abibumbye ku wa 15 Ugushyingo 2000, nk'uko yemejwe burundu n'Iteka rya Perezida n° 158/01 ryo ku wa 31/12/2002 ;

Ishingiye ku Masezerano Mpuzamahanga agamije gukuraho icuruzwa ry'abantu no gushora abandi mu busambanyi yemerejwe i New York n'Inama Rusange y'Umuryango w'Abibumbye ku wa 21 Werurwe 1950 nk'uko yemejwe burundu n'Iteka rya Perezida n° 162/01 ryo ku wa 31/12/2002;

Suppression of the Financing of Terrorism adopted by the United Nations General Assembly on 9 December 1999 as ratified by Presidential Order n° 43/01 of 14/04/2002;

Pursuant to the Organization of African Union Convention on the Prevention and Combating of Terrorism signed in Algiers on 13 July 1999 as ratified by Presidential Order n° 39/01 of 14/04/2002;

Pursuant to the International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in New York in 1988 by the United Nations General Assembly as ratified by Presidential Order n° 47/01 of 14/04/2002;

Pursuant to the United Nations Convention against Transnational Organized Crime adopted by General Assembly in New York by the United Nations General Assembly on 15 November 2000 as ratified by Presidential Order n° 158/01 of 31/12/2002;

Pursuant to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others adopted in New York by the United Nations General Assembly on 21 March 1950 as ratified by Presidential Order n° 162/01 of 31/12/2002;

répression du financement du terrorisme, adoptée par l'Assemblée Générale des Nations Unies le 09 décembre 1999, telle que ratifiée par l'Arrêté Présidentiel n° 43/01 du 14/04/2002 ;

Vu la Convention de l'Organisation de l'Unité Africaine sur la prévention et la lutte contre le terrorisme signée à Alger le 13 juillet 1999 telle que ratifiée par l'Arrêté Présidentiel n° 39/01 du 14/04/2002 ;

Vu la Convention des Nations Unies contre le trafic illicite de stupéfiants et de substances psychotropes adoptée en 1988 par l'Assemblée Générale des Nations Unies telle que ratifiée par l'Arrêté Présidentiel n° 47/01 du 14/04/2002 ;

Vu la Convention des Nations Unies contre la criminalité transnationale organisée, adoptée à New York par l'Assemblée Générale des Nations Unies le 15 novembre 2000 telle que ratifiée par l'Arrêté Présidentiel n° 158/01 du 31/12/2002 ;

Vu la Convention des Nations Unies pour la répression de la traite des êtres humains et de l'exploitation de la prostitution d'autrui, adoptée à New York par l'Assemblée Générale des Nations Unies le 21 mars 1950 telle que ratifiée par l'Arrêté Présidentiel n° 162/01 du 31/12/2002 ;

Ishingiye ku Masezerano Mpuzamahanga agamije gukuraho no guhana icuruzwa ry'abantu cyane cyane abagore n'abana, yuzuza amasezerano agamije kurwanya ubugizi bwa nabi mpuzamahanga buteguye, yemerejwe i New York n'Inama Rusange y'Umuryango w'Abibumbye ku wa 15 Ugushyingo 2000 nk'uko yemejwe burundu n'Iteka rya Perezida n° 163/01 ryo ku wa 31/12/2002;

Ishingiye ku Masezerano Mpuzamahanga agamije kurwanya ruswa yemerejwe i New York n'Inama Rusange y'Umuryango w'Abibumbye ku wa 31 Ukwakira 2003 nk'uko yemejwe burundu n'Iteka rya Perezida n° 56/01 ryo ku wa 27/12/2005;

Ishingiye ku Itegeko Ngenga n° 01/2004 ryo ku wa 29/01/2004 rigena imitunganyirize, imikorere n'ububasha by'Urukiko rw'Ikirenga nk'uko ryahinduwe kandi ryujujwe kugeza ubu;

Ishingiye ku Itegeko Ngenga n° 07/2004 ryo ku wa 25/04/2004 rigena imiterere, imikorere n'ububasha by'Inkiko nk'uko ryahinduwe kandi ryujujwe kugeza ubu;

Ishingiye ku Itegeko n°09/2000 ryo ku wa 16/06/2000 rishyiraho Polisi y'Igihugu kandi rigena imitunganyirize n'ububasha byayo;

Ishingiye ku Itegeko n° 13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'ishinjabaha nk'uko ryahinduwe kugeza ubu;

Ishingiye ku Itegeko n° 18/2004 ryo ku wa

Pursuant to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime adopted in New York by the United Nations General Assembly on 15 November 2000 as ratified by Presidential Order n° 163/01 of 31/12/2002;

Pursuant to the United Nations Convention against corruption adopted in New York on 31 October 2003 as ratified by Presidential Order n° 56/01 of 27/12/2005;

Pursuant to Organic Law n° 01/2004 of 29/01/2004 establishing the organization, functioning and jurisdiction of the Supreme Court as amended to date;

Pursuant to Organic Law n° 07/2004 of 25/04/2004 determining the organization, functioning and jurisdiction of Courts as amended to date;

Pursuant to Law n° 09/2000 of 16/06/2000 on the establishment, general organization and jurisdiction of the National Police;

Pursuant to Law n° 13/2004 of 17/5/2004 relating to the Code of criminal procedure as amended to date;

Pursuant to Law n° 18/2004 of 20/6/2004

Vu le Protocole visant à prévenir, réprimer et punir la traite des personnes, en particulier des femmes et des enfants, additionnel à la Convention des Nations Unies contre la criminalité transnationale organisée adoptée à New York par l'Assemblée Générale des Nations Unies le 15 novembre 2000 tel que ratifié par l'Arrêté Présidentiel n° 163/01 du 31/12/2002 ;

Vu la Convention des Nations Unies contre la corruption, adoptée à New York en date du 31 octobre 2003 telle que ratifiée par l'Arrêté Présidentiel n° 56/01 du 27/12/2005 ;

Vu la Loi Organique n° 01/2004 du 29/01/2004 portant organisation, fonctionnement et compétence de la Cour Suprême telle que modifiée et complétée à ce jour ;

Vu la Loi Organique n° 07/2004 du 25/04/2004 portant code d'organisation, fonctionnement et compétence judiciaires telle que modifiée et complétée à ce jour ;

Vu la Loi n° 09/2000 du 16/06/2000 portant création, organisation générale et compétence de la Police Nationale ;

Vu la Loi n° 13/2004 du 17/05/2004 portant code de procédure pénale telle que modifiée et complétée à ce jour;

Vu la Loi n° 18/2004 du 20/06/2004 portant

20/06/2004 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu,

Isubiye ku Itegeko n° 23/2003 ryo ku wa 07/08/2003 rikumira kandi rica burundu ruswa n'ibindi byaha bifitanye isano na yo, cyane cyane mu ngingo zaryo, iya 25, 26 n'iya 27;

YEMEJE:

UMUTWE WA MBERE: INGINGO RUSANGE

Ingingo ya mbere: Ikigamijwe n'iri tegeko

Iri tegeko rigamije gukumira, gutahura, kurwanya no guca:

- 1° ikoreshwa ry'ibigo by'imari cyangwa izindi nzego z'ubukungu rigambiriye iyezandonke;
- 2° iterankunga ry'ibikorwa by'iterabwoba byaba bifitanye cyangwa bidafitanye isano n'yezandonke.

Ingingo ya 2: Ibisobanuro by'amagambo

Muri iri tegeko, amagambo akurikira asobanura:

- 1° “**icyaha cy'yezandonke**”: icyaha kirangwa n'igikorwa kimwe cyangwa byinshi muri ibi bikurikira cyakozwe bigambiriwe, ari byo:

relating to the civil, commercial, labour and administrative procedure as amended date;

Reviewed Law n° 23/2003 of 07/08/2003 on the prevention and suppression of corruption and other related offences, especially in Articles 25, 26 and 27;

ADOPTS:

CHAPTER ONE: GENERAL PROVISIONS

Article One : Purpose of this Law

This Law aims at preventing, detecting, fighting and eradicating:

- 1° the use of the financial system or the other economic sectors for the purpose of money laundering;
- 2° the financing of acts of terrorism whether related to money laundering or not.

Article 2: Definitions of terms

For the purpose of this Law, the terms below shall have the following meanings:

- 1° “**offence of money laundering**”: offence constituted by one or several of the acts listed below, committed deliberately,

code de procédure civile, commerciale, sociale et administrative telle que modifiée et complétée à ce jour ;

Revu la Loi n° 23/2003 du 07/08/2003 relative à la prévention et à la répression de la corruption et des infractions connexes, spécialement en ses articles 25, 26 et 27;

ADOPTÉ :

CHAPITRE PREMIER : DISPOSITIONS GENERALES

Article premier: Objet de la présente loi

La présente loi a pour objet de prévenir, détecter, lutter et éradiquer:

- 1° l'utilisation du système financier ou d'autres secteurs de la vie économique à des fins de blanchiment de capitaux ;
- 2° le financement des actes de terrorisme associé ou non au blanchiment de capitaux.

Article 2: Définitions des termes

Au sens de la présente loi, les termes repris ci-après ont les significations suivantes:

- 1° “**infraction de blanchiment de capitaux**” : infraction intentionnellement commise constituée par un ou plusieurs actes

namely:

- a. guhindura, kohereza cyangwa gufata umutungo, nyir'ukubikora azi ko bituruka ku cyaha gikomeye cyangwa cy'ubugome, cyangwa se bituruka ku kugira uruhare muri icyo cyaha, hagamijwe guhisha, kutagaragaza inkomoko itemewe n'amategeko y'ubo mutungo cyangwa gufasha umuntu wese wagize uruhare mu ikorwa ry'icyo cyaha guhunga ubutabera;
- b. guhisha, kutagaragaza imiterere, inkomoko, ahabarizwa umutungo, kuwukoresha uko ushaka, itangwa ryawo, guhisha nyiri umutungo nyawe cyangwa uwufiteho uburenganzira, uzi neza ko uwo mutungo ari indonke ituruka ku cyaha gikomeye cyangwa cy'ubugome cyangwa uturuka ku kugira uruhare kuri ibyo byaha;
- c. kugura, gutunga cyangwa gukoresha umutungo uzi ko, mu gihe cyo kuwakira, uwo mutungo ukomoka ku cyaha gikomeye cyangwa cy'ubugome cyangwa uturuka ku kugira uruhare kuri ibyo byaha;
- d. kugira uruhare, kwishyira hamwe, ubwinjiracyaha, gufasha, gushuka, gutegera, koroheresa cyangwa gutanga inama mu gukora igikorwa icyo ari cyo cyose mu byavuzwe muri iyi ngingo.

énumérés ci-après, à savoir :

- a. la conversion, le transfert ou la détention de biens dont l'auteur sait qu'ils sont le produit du délit ou du crime ou de la participation à ces infractions commises dans le but de dissimuler ou de déguiser l'origine illicite desdits biens ou d'aider toute personne impliquée dans la commission de cette infraction à échapper à la justice;
- b. la dissimulation, le déguisement de la nature, de l'origine, du lieu, de la disposition, de la donation ou de la dissimulation du propriétaire réel de biens ou de droits y relatifs sachant pertinemment que ces biens sont le produit d'un délit ou crime ou de la participation à ces infractions;
- c. acquisition, possession ou utilisation de biens dont l'auteur sait, au moment de leur réception qu'ils sont le produit d'un délit ou crime ou de la participation à ces infractions;
- d. la participation à l'un des actes visés au présent article, l'association pour commettre un tel acte, la tentative de le perpétrer, le fait d'aider, d'inciter de défier, d'assister ou de conseiller quelqu'un à le commettre.

Haba habaye iyezandonke n'ubwo ibikorwa by'ibanzé biganisha ku kugura, gutunga cyangwa kohereza umutungo ugamiye kwezwa, gukingira ikibaba, byaba byakorewe ku butaka bw'ikindi gihugu.

2° “**ubunyage**”: ukwamburwa burundi umutungo n'icyemezo ndakuka cy'urukiko rubifitiye ububasha rukawushyikiriza Leta, ndetse byaba ngombwa rukanayishyikiriza n'ibindi bijyanye n'uburenganzira kuri uwo mutungo;

3° “**umutwe w'abagizi ba nabi**”: ishyirahamwe ry'abantu bishyize hamwe bagamije gukora icyaha cy'ubugome, kugira ngo babone, mu buryo butaziguye cyangwa buziguye, inyungu y'ibintu cyangwa se y'amafaranga;

4° “**umukiriya**”: umuntu ku giti cye cyangwa umuryango ufile ubuzimagatozi:

- a. ufungura cyangwa ufungurirwa konti muri banki ;
- b. ufile ububasha bwo gusinya kuri iyo konti ;
- c. ushyira, wohereza cyangwa wohererezwa amafaranga binyujije kuri iyo konti;

Money laundering is committed even if the original acts leading to the acquisition, possession or transfer of the property to be laundered and the protection of the offender are carried out in the territory of another State.

2° “**confiscation**”: permanent deprivation of property by a definitive decision of a competent tribunal which transfers to the State the ownership of this property and any related title to property;

3° “**criminal organization**”: structured group acting in concert with the aim of committing an offence qualified as a crime, in order to obtain, directly or indirectly, a material or financial benefit;

4° “**customer**”: natural person or legal entity who:

- a. opens a bank account or in the name of whom a bank account is opened ;
- b. has the power to sign on that account;
- c. deposits, transfers or receives money by using that account;

Il y a blanchiment de capitaux même si les faits qui sont à l'origine de l'acquisition, de la possession et du transfert des biens à blanchir et de la protection de l'auteur sont commis sur le territoire d'un Etat tiers.

2° “**confiscation**”: déchéance du droit de propriété sur un bien prononcée définitivement par une juridiction compétente et affectant ce bien et, le cas échéant, transférant le titre de cette propriété au domaine de l'Etat;

3° “**organisation criminelle**”: groupe structuré opérant de concert en vue de commettre une infraction qualifiée de crime pour en tirer, directement ou indirectement, un avantage matériel ou financier ;

4° “**client**”: personne physique ou morale qui :

- a. ouvre un compte ou au nom de laquelle un compte bancaire est ouvert;
- b. a le pouvoir de signer sur ce compte;
- c. dépose, transfère ou reçoit l'argent en utilisant ce compte;

d. undi wese wemerewe kugira icyo akora kuri iyo konti ;

5° “**ihagarika ryagateganyo**”: icyemezo kigamije guhagarika by’agateganyo ishyirwa mu bikorwa ry’igikorwa, kubuza koherenza, guhindura, kwimura umutungo bishingiye ku cyemezo cyangwa amabwiriza atan Zwe n’ubuyobozi bubifitiye ububasha;

6° “**igikoresho**”: ikintu icyo ari cyo cyose cyakoreshejwe cyangwa kigenewe gukoreshwa, ari igice cyangwa cyose uko cyakabaye, no mu buryo ubwo ari bwo bwose mu rwego rwo gukora icyaha;

7° “**umuntu ugaragara mu rwego rwa politiki**”: umuntu uwo ari we wese washinzwe cyangwa wigeze gushingwa imirimo ikomeye ya Leta muri Repubulika y’u Rwanda cyangwa mu bindi bihugu, hiyongereyemo abagize umuryango we, abandi bantu b’inkoramutima cyangwa se bafite ibyo bahuriyeho mu by’ubucuruzi cyangwa se imari;

8° “**indonke**”: umutungo uwo ari we wose ukomoka, mu buryo butaziguye cyangwa buziguye, ku cyaha cyakozwe;

9° “**umutungo**”: icyo umuntu atunze icyo ari cyo cyose, cyaba kiboneka cyangwa kitaboneka, cyimukanwa cyangwa kitimukanwa, gifatika cyangwa kidafatika hamwe n’inyandiko cyangwa ibimenyetso bigaragaza uburenganzira

d. is authorized to conduct the transaction on that account;

5° “**freezing**”: measure which consists of the temporary delay of the execution of a transaction, the prohibition or restriction of the transfer, the conversion, the transformation, the movement of property on the basis of a decision or a directive issued by a competent authority;

6° “**instrument**”: object used or meant to be used, in full or in part, and in any manner, in order to commit a criminal offence;

7° “**political Leader**”: any person who is or has been entrusted with prominent public functions in the Republic of Rwanda or in other countries including his/her family members or other persons who are his/her close associates or have business or financial relationships with him or her;

8° “**proceed**”: property which, directly or indirectly, is derived from the commission of an offence;

9° “**property**”: an asset of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, as well as legal documents or instruments evidencing the existence of a right to, or interest in an

d. est autorisée à mener des opérations sur le compte;

5° “**gel**”: mesure qui consiste à différer provisoirement l’exécution d’une opération, interdire le transfert, la modification, la transformation, le déplacement de biens par suite d’une décision ou d’une directive donnée par une autorité compétente ;

6° “**instrument**”: objet utilisé ou devant être utilisé totalement ou en partie et de quelque manière que ce soit pour commettre un acte criminel;

7° “**haute personnalité politique**” : quiconque exerce ou a exercé en République du Rwanda ou dans d’autres pays d’importantes fonctions publiques y compris les membres de sa famille ou les personnes qui lui sont étroitement associées ou ont des relations commerciales ou financières avec lui;

8° “**produit**” : bien qui, directement ou indirectement, provient de la commission d’une infraction ;

9° “**bien**” : tout avoir de quelque nature que ce soit, corporel ou incorporel, mobilier ou immobilier, tangible ou intangible, ainsi que les documents ou instruments légaux attestant l’existence

cyangwa inyungu kuri uwo mutungo;

10° “**ushinzwe gutanga amakuru**”: umuntu ku gitи
cyangwa umuryango ufile ubuzimagatozi
bivugwa mu ngingo ya gatatu (3) y’iri tegeko.

Ingingo ya 3: Ushinzwe gutanga amakuru

Ingingo z’iri tegeko zireba umuntu ku gitи
cyangwa umuryango ufile ubuzimagatozi mu rwego
rw’imirimo akora, ayobora, agenzura, cyangwa se
atangamo inama ku byerekeranye no kubitsa,
kuvunja, gushora imari, guhindura cyangwa ubundi
buryo bwose bwo kwimura amafaranga, cyangwa
indi mitungo, by’umwihariko:

1° Banki Nkuru y’Igihugu;

2° amabanki n’ibindi bigo by’imari;

3° abakora imirimo yigenga mu by’amategeko,
igihe bahagarariye cyangwa bafasha abakirya
babo hanze y’inkiko, by’umwihariko mu rwego
rw’ibikorwa bikurikira:

- a. kugura no kugurisha imitungo, ibikorwa
cyangwa umutungo by’ubucuruzi;
- b. gufata amafaranga, inyandiko
mvunjwafaranga n’indi mitungo

asset;

10° “**reporting entity**”: natural or legal person
with legal personality set forth in Article 3
of this Law.

Article 3: Reporting entity

The provisions of this Law shall apply to any
natural or legal person that, in the framework
of its profession, conducts, controls or advises
transactions involving deposits, exchanges,
investments, conversions or any other capital
movement or any other property, in particular:

1° the National Bank of Rwanda;

2° banks and other financial institutions;

3° members of private legal practice, when
they represent or assist their clients outside
of a judicial process, in particular within the
framework of the following activities:

- a. buying and selling of properties,
trading companies or businesses
- b. handling of money, securities and
other assets belonging to clients;

d’un droit ou d’un intérêt sur cet avoir ;

10° “**entité déclarante**”: toute personne
physique ou morale dotée de la
personnalité juridique visée à l’article 3
de la présente loi.

Article 3 : Entité déclarante

Les dispositions de la présente loi sont
applicables à toute personne physique ou morale
dotée de la personnalité juridique qui, dans
l’exercice de sa profession, dirige, contrôle des
opérations entraînant des dépôts, des échanges,
des investissements, des conversions ou tous
autres mouvements de capitaux ou de tous
autres biens ou y intervient à titre de conseil,
notamment:

1° la Banque Nationale du Rwanda ;

2° les banques et autres établissements
financiers;

3° les membres des professions juridiques
libérales, lorsqu’ils représentent ou
assistent leurs clients en dehors de
toute procédure judiciaire, notamment
dans le cadre des activités suivantes :

- a. achat et vente de biens, d’entreprises
commerciales ou de fonds de
commerce ;
- b. manipulation d’argent, de titres ou
d’autres actifs appartenant au client ;

y'umukiriya;

- c. gufunguza no gucunga konti za banki, konti zo kuzigama, konti z'inyandiko mvunjwafaranga;
- d. gushyiraho, gucunga no kuyobora ibigo by'ubucuruzi, imiryango y'ubucuruzi yibumbiye hamwe cyangwa indi iteye ityo cyangwa se gukora ibindi bijyanye n'imari.

4° abandi bantu, by'umwihariko:

- a. abagenzuzi b'imari;
- b. abahuza abaguzi n'abagurisha mu mirimo yerekanye n'imitungo itimukanwa;
- c. abacuruzi b'ibicuruzwa by'igiciro kinini birimo ibikorwa by'ubuhanzi nk'ibishushanyo biteye amarangi, amashusho y'abantu, n'ibikorwa by'amabuye n'ibyuma by'agaciro;
- d. abantu bagemura amafaranga;
- e. abatunze, abayobora n'abacunga ahakinirwa imikino, inzu z'imyidagaduro harimo n'ibigo bikoresha amatombora yo mu rwego rw'igihugu;
- f. imiryango ishinzwe gutwara abantu n'ibantu
- g. imiryango itegamiye kuri Leta.

- c. opening and management of current, savings or securities accounts;
- d. formation, management or directing of companies, trusts or other similar ventures or the execution of any other financial transactions.
- c. ouverture ou gestion de comptes bancaires, courants ou de titres ;
- d. constitution, gestion ou direction de sociétés commerciales, de fiducies ou de structures similaires ou exécution d'autres opérations financières.

4. other persons, in particular:

- a. auditors;
- b. real estate agents;
- c. traders in items of significant value, such as works of art such as paintings, masks as well as precious stones and metals;
- d. natural/legal persons involved in the business of transporting money;
- e. owners, directors and managers of casinos and gaming halls, including national lotteries;
- f. travel agencies;
- g. Non-governmental organizations.

4. les autres assujettis, notamment:

- a. les auditeurs;
- b. les agents immobiliers ;
- c. les marchands d'articles de grande valeur, tels que les objets d'art notamment les tableaux, les masques, les pierres et les métaux précieux ;
- d. les intermédiaires financiers ;
- e. les propriétaires, les directeurs et les gérants de casinos et d'établissements de jeux, y compris de lotteries nationales ;
- f. les agences de voyage ;
- g. les organisations non gouvernementales.

Ingingo ya 4: Igikorwa cy'iterabwoba no gutera inkunga iterabwoba

Hatirengagijwe iyubahirizwa ry'amasezerano impuzamahanga yemejwe na Repubulika y'u Rwanda, ibikorwa bifatwa nk'iby'iterabwoba ni ibikorwa bisobanurwa n'ingingo z'itegeko ryerekeye kurwanya iterabwoba.

Igikorwa gifatwa nk'icyaha cyo gutera inkunga iterabwoba, iyo uko gutera inkunga gukozwe n'umuntu uwo ari we wese akabikorera ikigo cy'iterabwoba mu gutanga, mu gukusanya cyangwa mu gucunga amafaranga cyangwa umutungo uwo ari wo wose, cyangwa mu gutanga inama agamije kubona ayo mafaranga, uwo mutungo n'ibyo bikoresho byakoreshwa cyangwa azi ko byose cyangwa igice cyabyo bigamije gukoreshwa kimwe mu bikorwa by'iterabwoba biteganijwe n'itegeko ryihariye ryerekeye kurwanya iterabwoba.

Ingingo ya 5: Amafaranga cyangwa imitungo bitemewe

Mu gushyira mu bikorwa iri tegeko, inkomoko y'amafaranga cyangwa umutungo biba bitemewe iyo bikomoka ku gukora:

1° icyaha gifitanye isano na:

- a. iterabwoba;
- b. ruswa n'ibindi byaha bifitanye isano na yo bisobanurwa n'itegeko;
- c. icyaha cy'ubugome cyateguwe;

Article 4: Act of terrorism and financing terrorism

Notwithstanding the application of international conventions ratified by the Republic of Rwanda, acts of terrorism shall be those specified by the provisions of the law on counter terrorism.

Any act shall constitute an act of financing of a terrorism enterprise by any person by providing, collecting or managing funds, assets or any goods or by providing advice with the aim of having those assets or goods utilized or knowing that they are intended to be used, entirely or partially in order to commit any of terrorism acts provided for by the law on counter terrorism.

Article 5: Illicit money or assets

For the implementation of this Law, the origin of money or property is illicit when derived from the commission of:

1° an offence related to:

- a. terrorism;
- b. corruption and related offences as defined by the law;
- c. organized crime;

Article 4 : Acte de terrorisme et du financement du terrorisme

Sous réserve de l'application des conventions internationales ratifiées par la République du Rwanda, sont considérés comme actes terroristes, les actes définis par les dispositions de la loi spéciale relative à la lutte contre le terrorisme.

Constitue une infraction de financement du terrorisme, le financement par toute personne d'une entreprise terroriste en fournissant, en collectant ou en gérant des fonds, des valeurs ou des biens quelconques ou en donnant des conseils en vue de l'acquisition de tels fonds, valeurs ou biens utilisés ou en sachant qu'ils sont destinés à être utilisés, en tout ou partie en vue de commettre l'un quelconque des actes de terrorisme prévus par la loi spéciale relative à la lutte contre le terrorisme.

Article 5 : Capitaux ou biens illicites

Pour l'application de la présente loi, l'origine de capitaux ou de biens est illicite lorsque ceux-ci proviennent de la commission:

1° d'une infraction liée:

- a. au terrorisme;
- b. à la corruption et aux infractions connexes telles que définies par la loi ;
- c. au crime organisé ;

<p>d. ubucuruzi butemewe bw'ibiyobyabwenge;</p> <p>e. ubucuruzi butemewe bw'intwaro, bw'imitungo n'ubw'ibicuruzwa;</p> <p>f. icuruzwa ry'abakozi bakoreshwa rwihihwa;</p> <p>g. icuruzwa ry'abantu;</p> <p>h. guhahisha ubumaraya;</p> <p>i. gukoresha ku nyamaswa mu buryo butemewe imisemburo, ibyica imisemburo, imiti yongera imbaraga mu mubiri cyangwa ibindi byongera imisemburo cyangwa gukora ubucuruzi butemewe bw'ibyo bintu;</p> <p>j. ubucuruzi butemewe bw'ingingo n'imibiri by'abantu;</p>	<p>d. illicit trafficking in narcotics;</p> <p>e. illicit trafficking in weapons, goods and merchandise;</p> <p>f. trafficking in illegal labour;</p> <p>g. trafficking in human beings;</p> <p>h. exploitation of prostitution;</p> <p>i. illicit use of hormonal, anti-hormonal, beta-adrenergic or production stimulating substances on animals or the illegal trade in such substances;</p> <p>j. illicit trafficking in human organs and tissues;</p>	<p>d. au trafic illicite de stupéfiants ;</p> <p>e. au trafic illicite d'armes, de biens et de marchandises ;</p> <p>f. au trafic de mains-d'œuvre clandestine ;</p> <p>g. au trafic d'êtres humains ;</p> <p>h. à l'exploitation de la prostitution ;</p> <p>i. à l'utilisation illégale chez les animaux de substances à effet hormonal, à effet anti-hormonal, à effet bêta-adrénergique ou à effet stimulateur de production ou au commerce illégal de telles substances ;</p> <p>j. au trafic illicite d'organes et de tissus humains.</p>
<p>2° icyaha kijyanye n'icuruzwa ry'imigabane ku isoko cyangwa no guhamagarira rubanda gufata imigabane bitemewe n'amategeko;</p>	<p>2° an offence related to the stock market or irregular public issue of shares;</p>	<p>2° d'une infraction boursière ou d'un appel public irrégulier à l'épargne ;</p>
<p>3° ubwambuzi bushukana mu bikorwa by'imari, gufata bunyago, ubujura cyangwa kwambura kiboko ukoresheje ibikangisho cyangwa ighombo cy'uburiganya;</p>	<p>3° financial fraud, hostage-taking, theft or extortion with the use of violence or threats or fraudulent bankruptcy;</p>	<p>3° d'une escroquerie financière, d'une prise d'otages, d'un vol ou d'une extorsion à l'aide de violences ou de menaces, d'une banqueroute frauduleuse ;</p>
<p>4° kimwe mu byaha bisobanurwa n'itegeko rijyanye n'ikumira no guca burundu ruswa n'ibaha bifitanye isano na yo.</p>	<p>4° one of the offences defined under the Law on prevention and suppression of corruption and related offences.</p>	<p>4° de l'une des infractions définies par la loi relative à la prévention et à la répression de la corruption et des infractions connexes.</p>

UMUTWE WA II: GUKORERA MU MUCYO IMIRIMO IJYANYE N'IMARI

Ingingo ya 6 Iyoherezwa ry'amarafaranga

Iyoherezwa ry'amarafaranga iryo ari ryo ryose

CHAPTER II: TRANSPARENCY IN FINANCIAL TRANSACTIONS

Article 6: Money transfer

Any transfer of money or negotiable instruments

CHAPITRE II : TRANSPARENCE DES OPERATIONS FINANCIERES

Article 6 : Transfert des fonds

Tout transfert, à destination ou en provenance

cyangwa se inyandiko mvunjwafaranga bijya cyangwa biva mu mahanga bigeze ku mubare w'amafaranga ungana nibura n'ikigero cyashyizweho n'ishami rishinzwe iperereza ku mari, rikorwa binyujije kuri banki cyangwa ikindi kigo cy'imari cyangwa undi muntu wemerewe gutanga amafaranga.

Amabanki, ibindi bigo by'imari n'abemerewe gutanga amafaranga, bigaragaza, mu iyohereza ry'amafaranga rikoresha uburyo bwa elegitoronike cyangwa ubundi buryo, amakuru nyayo yerekeye uwategetse gukorerwa uwo murimo, ndetse n'andi makuru afitanye isano na yo. Ayo makuru aherekeza inzira y'iyohereza ry'amafaranga kugeza habaye iyishurwa.

Igika cya 2 cy'iyi ngingo ntigikurikizwa ku iyohereza ry'amafaranga rikozwe mu buryo elegitoronike iyo hakoreshejwe ikarita y'umwenda cyangwa yo kwishyurana kandi inomero y'yo karita ikagaragara mu makuru aherekeje iryo yohereza; icyakora, gikurikizwa iyo ikarita y'umwenda cyangwa yo kwishyurana ikoreshejwe nk'uburyo bwo kwishyurana.

Igika cya kabiri cy'iyi ngingo ntigikurikizwa mu byerekeye iyohereza ry'amafaranga rikoresha uburyo elegitoronike no mu byerekeye kwishyurana, iyo uwayohereje unategekwa gutanga amakuru hamwe n'uwohererejwe amafaranga ari ibigo by'imari byikorera ibyo bikorwa mu izina ryabyo.

destined for or coming from a foreign country, of an amount at least equal to a threshold set by the Financial Investigation Unit, shall be performed by the intermediary of a bank or a financial institution or by an authorized money remitter.

Banks and other financial institutions and money remitters shall include accurate originator information in money transfers, electronic or others, along with any other related message. This information shall go along with the transfer throughout the payment chain.

Paragraph 2 of this Article shall not apply to wire transfers performed with credit or cash card the number of which appears in the included information; it shall apply, however, when the credit or cash cards are used as a means of payment.

Paragraph 2 of this Article shall not apply to wire transfers and payments when the originator subjected to the obligation of providing information and the beneficiary are financial institutions which are acting on their own account.

d'un pays étranger, de fonds ou de titres d'un montant au moins égal à un seuil fixé par la cellule de renseignements financiers doit être effectué par l'intermédiaire d'une banque ou établissement financier ou d'un service de remise de fonds autorisé.

Les banques et les autres établissements financiers et les services de remise de fonds incluent dans les transferts de fonds, sous forme électronique ou autres, des renseignements exacts sur le donneur d'ordre ainsi que tout autre message connexe. Ces renseignements accompagnent la chaîne du transfert jusqu'au paiement.

L'alinéa 2 du présent article ne s'applique pas aux transferts électroniques de fonds exécutés par carte de crédit ou de paiement dont le numéro figure dans les renseignements les accompagnant; il s'applique en revanche lorsque les cartes de crédit ou de paiement sont utilisées comme moyen de paiement.

L'alinéa 2 du présent article ne s'applique pas aux transferts électroniques de fonds et aux règlements lorsque le donneur d'ordre soumis à l'obligation d'information et le bénéficiaire sont des institutions financières opérant pour leur propre compte.

Ingingo ya 7: Imenyekanisha ry'amafaranga ku mupaka

Abaakoze icyaha cy'iyezandonke, umuntu we wese usohotse cyangwa winjiye muri Repubulika y'u Rwanda utwaye amafaranga cyangwa impapuro zivunywamo amafaranga aruta ikigero cyashyizweho n'Ishami rishinzwe iperereza ku mari atarayamenyekanishije, uretse amafaranga afitiwe urupapuro rwo kubikuza rwatanzwe na banki yemewe mu Rwanda.

Article 7: Cash declaration at the border

Any person who leaves or enters the Republic of Rwanda transporting cash or negotiable bills or exchange or an amount above that of the threshold set by the financial investigation unit without prior declaration, except for funds certified by a withdrawal slip issued by an accredited bank in Rwanda shall commit an offence of money laundering

Article 7 : Déclaration d'espèces à la frontière

Commet une infraction de blanchiment de capitaux, quiconque quitte la République du Rwanda ou y entre transportant des espèces ou des effets négociables d'un montant supérieur à un seuil fixé par la cellule de renseignements financiers sans les avoir au préalable déclarés, à l'exception des fonds attestés par un bordereau de retrait délivré par une banque agréée au Rwanda.

Ingingo ya 8: Ibanga ry'akazi

Buri muntu cyangwa ikigo gishinzwe gutanga amakuru, urwego rugenzura cyangwa umugenzuzi w'imari bagomba kubahiriza amabwiriza avugwa muri iri tegeko, hatitawe ku nshingano zo kugira ibanga ry'akazi cyangwa irindi tegeko iryo ari ryo ryose ribuza kumena ibanga.

Icyakora, ba avoka, ba noteri cyangwa abandi bakora umurimo ujyanye n'amategeko mu buryo bwigenga, si ngombwa ko bashyikiriza amakuru akyanye n'ibikorwa bikemangwa ku ishami rishinzwe iperereza ku mari iyo amakuru bafite bayabonye gusa mu rwego rw'ibanga ry'akazi cyangwa ry'ubwizimbe mu kazi bahabwa n'amategeko.

Article 8: Professional secrecy

Every reporting entity, control organ or auditor, shall respect the conditions set forth by this Law, notwithstanding any obligation of professional secrecy or restriction of divulgation of information imposed by any other law.

However, lawyers, notaries and other independent legal professions acting as independent jurists are not required to submit a suspicious transaction report to the Financial Investigation Unit if the information that they acquired was obtained in circumstances resulting from professional secrecy or a legal professional privilege.

Article 8: Secret professionnel

Chaque entité déclarante, organe de contrôle ou auditeur doit respecter les conditions prévues dans la présente loi, nonobstant toute obligation au secret professionnel ou restriction à la divulgation de renseignements imposée par toute autre loi.

Toutefois, les avocats, notaires, les autres professions juridiques libérales agissant en qualité des juristes indépendants ne sont pas tenus de déclarer les opérations suspectes à la cellule de renseignements financiers si les informations qu'ils détiennent ont été obtenues dans des circonstances relevant du secret professionnel ou d'un privilège professionnel légal.

Ingingo ya 9: Guca banki za baringa na konti zitagira amazina n'izindi ngamba z'ikumira

Kugira ngo bibashe gukorera ku butaka bwa Repubulika y'u Rwanda, amabanki cyangwa ibigo by'imari bigomba kubabihagaragara.

Banki n'ibindi bigo by'imari ntibikorana n'amabanki yanditse ahantu kandi atahagaragara.

Imiryango iyo ari yo yose ifite ubuzimagatozi iba mu Rwanda igomba kugeza, ku buryo butaziguye cyangwa buziguye, ku bayobozi b'inzezo z'ubutabera no ku Ishami rishinzwe iperereza ku mari, amakuru nyayo kandi ajyanye n'igihe, yerekeye umuntu ku giti cye cyangwa imiryango ifite ubuzimagatozi biyigenzura cyangwa biyihagarariye mu rwego rw'amategeko, hamwe n'amakuru ku bayobozi b'yo miryango ndetse na ba nyirayo.

Ibigo by'imari ntibigomba gufungura cyangwa ngo bigire konti zitagira amazina ya ba nyirazo cyangwa konti zigizwe n'imibare gusa, cyangwa konti z'amazina ya baringa cyangwa atari yo.

Ingingo ya 10: Umwirondoro w'abakiriya

Abashinzwe gutanga amakuru bafata imyirondoro y'abakiriya babo mu bihe bikurikira:

Article 9: Prohibition of fictive banks and anonymous accounts and other preventive measures

To be able to operate on the territory of the Republic of Rwanda, banks or financial institutions shall have to be physically present on the said territory.

Banks and other financial institutions shall not implement business relationships with banks registered in places where they are not physically present.

Any legal persons or entities established in the Republic of Rwanda shall provide accurate, relevant and updated information, directly or indirectly, to the judicial authorities and the Financial Investigation Unit regarding the natural or legal persons who are effectively controlling or managing them or who constitute their legal representation, as well as information about their managers and beneficial owners.

Financial institutions shall not open or maintain anonymous or digitized accounts, nor accounts with fictive or incorrect names.

Article 10 : Identification of customers

Reporting entities shall identify their customers in the following cases:

Article 9: Interdiction des banques fictives et des comptes anonymes et autres mesures de prévention

Pour pouvoir mener leurs activités sur le territoire de la République du Rwanda, les banques ou les établissements financiers doivent y maintenir une présence physique.

Les banques et les autres établissements financiers n'entretiennent pas des relations commerciales avec les banques immatriculées dans des lieux où elles ne sont pas physiquement présentes.

Les personnes morales ou entités établies en République du Rwanda doivent fournir, directement ou indirectement, aux autorités judiciaires et à la Cellule de renseignements financiers des informations adéquates, pertinentes et à jour sur les personnes physiques ou morales qui les contrôlent ou les gèrent effectivement ou en constituent la représentation légale, ainsi que sur leurs administrateurs et bénéficiaires effectifs.

Les institutions financières n'ouvrent ni ne tiennent des comptes anonymes ou numérisés ni des comptes sous de noms fictifs ou incorrects.

Article 10: Identification des clients

Les entités déclarantes doivent identifier leurs clients dans les cas suivants:

1° mbere y'uko bagirana imikoranire ;	1° prior to establishing a business relationship;	1° avant d'établir des relations d'affaires ;
2° iyo bagiranye ibikorwa bidahoraho by'amafaranga afite agaciro karenze ikigero cyashyizweho n'ishami rishinzwe iperereza ku mari;	2° when they execute occasional transactions exceeding the threshold set by the Financial Investigation Unit;	2° lorsqu'elles exécutent des opérations occasionnelles dépassant le seuil fixé par la cellule de renseignements financiers ;
3° iyo bohererejwe amafaranga mu buryo bwa elegitoroniki hatagaragajwe neza amakuru nyayo y'awayohereje;	3° when they receive a wire transfer that does not contain full information about the originator;	3° lorsqu'elles reçoivent un transfert électronique qui ne contient pas de renseignements complets sur le donneur d'ordre;
4° iyo hari ugukeka ko habaye iyezandonke;	4° when there is suspicion of money laundering;	4° lorsqu'il existe un soupçon de blanchiment de capitaux;
5° iyo hashidikanywa ku kuri kw'amakuru bameruka kubona ku mwirondoro w'umukiriya.	5° when they have doubts about the veracity or accuracy of the customers' previously obtained identification data.	5° lorsqu'elles ont des doutes quant à la véracité ou la pertinence des informations précédemment obtenues sur l'identité du client.
Umwirondoro w'umuntu ku giti cye umenyekana neza iyo herekanywe impapuro z'umwirondoro zemewe zitangwa na Leta kandi ziriho ifoto ye. Iteka rya Minisitiri ufile ubatabera mu nshingano ze rigena urutonde rw'inyandiko z'umwirondoro zemewe na Leta.	The identity of a natural person shall be verified by the presentation of a valid official identification documents, including a photograph. An Order of the Minister in charge of justice shall establish a list of the acceptable official identification documents.	L'identité d'une personne physique est vérifiée par la présentation de pièces d'identité officielles valides, munies d'une photographie. Un arrêté du Ministre ayant la Justice dans ses attributions établit par la liste des pièces d'identité officielles acceptables.
Imiryango ifite ubuzimagatozi irangwa n'inyandiko iyo ari yo yose yemewe, by'umwihariko icyemezo cy'iyandikwa. Abashinzwe gutanga amakuru bafata ingamba zikwiriye zo kumenya neza umwirondoro wa ba nyir'umuryango.	Legal persons shall be identified with any valid document, in particular their registration certificate. Reporting entities shall take any reasonable measure to verify the identity of their members.	Les personnes morales sont identifiées au moyen de toute pièce valide, notamment leur certificat d'immatriculation. Les entités déclarantes doivent prendre des mesures raisonnables en vue de l'identification de leurs membres effectifs.
Umuntu wese ukora mu izina ry'umukiriya agomba	Any person known to act on behalf of a customer	Toute personne réputée agir pour le compte d'un

kugaragaza ibimenyetso by'uko akora mu izina rye, hamwe n'indangamuntu ye, cyangwa impapuro z'umwirondoro zemewe na Leta zivugwa mu gika cya 2 cy'iyi ngingo.

Ingingo ya 11: Imyirondoro ya za “kazino”, inzu z'imikino n'iy' abakiriya bazo

Abacunga, abayobora na b'abafite za kazino n'amazu y'imikino bagomba kwitondera inshingano zikurikira:

- 1° kugaragariza abayobozi bo mu butegetsi bwite bwa Leta babishinzwe uhereye ku munsi basabiye ho gutangiza umuryango inkomoko yemewe y'amafaranga ya ngombwa yo kuwutangiza;
- 2° kumenya neza umwirondoro w'abakinnyi bagura, bazana, bahindura tike cyangwa ibyemezo by'umukino ku giciro cy'amafaranga kirenze cyangwa kingana n'ikigero cyashyizweho n'Ishami rishinzwe iperereza ku mari, herekanwa indangamuntu cyangwa ibindi byangombwa byemewe by'umwimerere biyisimbura biriho ifoto kandi hakabikwa kopi;
- 3° kwandika ibikorwa byose byavuzwe mu gace ka 2° k'iki gika ahabugenewe hitaweho uko byagiye bikurikirana, bikandikwa nk'uko biteye ndetse n'umubare w'amafaranga wabyo, hakerekana amazina yose ya buri mukinnyi ndetse na nomero y'inyandiko

must present evidence to act on his/her behalf, as well as his/her identity card or an official identification document in conformity with paragraph 2 of this Article.

Article 11: Identification of casinos, gaming halls and their customers

Managers, directors and owners of casinos and gaming halls shall observe the following obligations:

- 1° to demonstrate to the relevant public authorities, from the day of the application for the opening, the lawful origin of the funds necessary for the creation of the enterprise;
- 2° to confirm the identity, upon presentation of a valid identity card or any valid original official document in lieu thereof, bearing a photo and of which a copy shall be kept, of the players who buy, bring, change chips or game tags for an amount of money superior or equal to a threshold set by the Financial Investigative authority;
- 3° to record all transactions set forth in subparagraph 2 on this paragraph in an appropriate register in a chronological order, including their nature and amount, indicating all names of each player, as well as the number of the presented identification

client doit présenter la preuve en vertu de laquelle elle agit, ainsi que sa carte d'identité ou document en tenant lieu conformément à l'alinéa 2 du présent article.

Article 11: Identification des casinos, établissements de jeux et de leurs clients

Les gérants, les directeurs et les propriétaires de casinos et des établissements de jeux sont tenus aux obligations ci-après :

- 1° justifier auprès des autorités publiques compétentes, dès la date de demande d'autorisation d'ouverture, de l'origine licite des fonds nécessaires à la création de l'établissement ;
- 2° s'assurer de l'identité, par la présentation d'une carte d'identité ou de tout document officiel original en tenant lieu, en cours de validité, et comportant une photographie dont il est pris une copie, des joueurs qui achètent, apportent, échangent des jetons ou des plaques de jeux pour une somme supérieure ou égale au seuil fixé par la Cellule des renseignements financiers;
- 3° consigner sur un registre spécial, dans l'ordre chronologique, toutes les opérations visées au point 2° du présent alinéa, leur nature et leur montant avec indication des noms et prénoms des joueurs, ainsi que du numéro du

z’imyirondoro yerekanwe, kandi iyo nyandiko ikabikwa mu gihe cy’imyaka itanu (5) uhoreye igithe igikorwa cya nyuma cyandikiweho;

4° kwandika ahabugenewe buri gihe hoherejwe amafaranga hagati ya “kazino” n’inzu z’imikino hakurikijwe uko ibyo bikorwa byagije bikurikirana no kubika iyo nyandiko mu gihe cy’imyaka itanu uhoreye igithe iyohereza ryanyuma ryandikiwe.

Igihe kazino cyangwa inzu y’umukino bigenzurwa n’umuryango runaka ufite amashami menshi, icyemezo cy’umukino kigaragaza ishami ryagitanze. Uko byagenda kose, ntabwo icyemezo cyatanzwe n’ishami runaka gishobora kwishyurwa n’irindi shami, ryaba rikorera ku butaka bw’u Rwanda cyangwa bw’ikindi gihugu.

Ingingo 12: Imyirondoro y’indi mishinga n’imyuga bitari iby’imari

Imishinga n’imyuga bitari iby’imari bisabwa kumenya imyirondoro y’abakiriya babyo no kubika inyandiko z’ibyo bibakorera muri gahunda zikurikira, by’umwihariko:

1° abakora umwuga wo guhuza abaguzi n’abagurisha b’imutungo itumukanwa: iyo bagiranye ibikorwa n’abakiriya babo bijyanye no kugura cyangwa kugurisha umutungo utumukanwa;

document and preserve this register for five (5) years from when the last transaction was recorded;

4° to record any transfer of funds transacted between casinos and gaming halls in an appropriate register in a chronological order and preserve this register for five (5) years from the time when the last transaction was recorded.

In case a casino or a gaming hall is controlled by a legal person which owns several subsidiaries, the game chips shall identify the issuing branch. In no case shall the game chips issued by a branch be refunded by another branch, whether operating on the national territory or in another state.

Article 12: Identification of other non-financial businesses and professions

Customer due diligence and record-keeping requirements shall apply to non-financial businesses and professions in the following situations, in particular:

1° real estate agents: when they are involved in transactions for their client concerning the buying and selling of real estate;

document d’identité présenté et conserver ledit registre pendant cinq ans après la dernière opération enregistrée;

4° consigner dans l’ordre chronologique tous les transferts de fonds effectués entre casinos et établissements de jeux sur un registre spécial et conserver ledit registre pendant cinq (5) ans après la dernière opération enregistrée.

Dans le cas où le casino ou l’établissement de jeux est contrôlé par une personne morale possédant plusieurs filiales, les jetons de jeux doivent porter l’identification de la filiale d’émission. En aucun cas, des jetons de jeux émis par une filiale ne peuvent être remboursés par une autre filiale, que celle-ci soit située sur le territoire national, ou dans un Etat tiers.

Article 12: Identification d’autres entreprises et professions non financières

Le devoir de vigilance relatif à la clientèle et de conservation des documents s’appliquent aux autres entreprises et professions non financières notamment dans les circonstances particulières suivantes:

1° agents immobiliers : lorsqu’ils effectuent des transactions pour leurs clients concernant l’achat et la vente des biens immobiliers;

2° abacuruzi b'ibyuma n'amabuye y'agaciro: iyo bagiranye ibikorwa n'umukiriya byishyuwe ako kanya ku mafaranga angana cyangwa ari hejuru y'ikigero cyemejwe n'Ishami rishinzwe iperereza ku mari;

2° dealers in precious metals and precious stones: when they engage in any cash transaction with a customer equal to or above the threshold which is specified by Financial Investigation Unit;

3° ba avoka, ba noteri, abandi banyamategeko b'umwuga bigenga n'abacungamari: iyo bateguriye cyangwa iyo bakoreye abakiriya babo imirimo ijyanye n'ibikorwa bikurikira:

3° lawyers, notaries, other legal professionals and accountants: when they prepare for or carry out transactions for their client concerning the following activities:

- a. kugura no kugurisha imitungo itimukanwa;
- b. gucunga amafaranga y'umukiriya, inyandiko mvunjwafaranga cyangwa indi mitungo y'umukiriya;
- c. gucunga konti za banki, konti zo kuzigama cyangwa z'inyandiko mvunjwafaranga;
- d. kwegeranya imigabane hagamijwe ishingwa, ikora n'icungwa ry'amasosiyete y'ubucuruzi;
- e. ishingwa, ikora, icungwa ry'imiryango cyangwa imishinga, igura n'igurisha ry'imishinga y'ubucuruzi.

- a. buying and selling of real estate;
- b. management of client's money, securities or his/her any other assets ;
- c. management of the bank, current or securities accounts;
- d. organization of contributions for the creation, operation or management of business companies;
- e. creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

2° négociants en métaux précieux ou en pierres précieuses : lorsqu'ils effectuent avec un client des transactions au comptant dont le montant est égal ou supérieur au seuil désigné par la cellule de renseignements financiers;

3° avocats, notaires, autres professions juridiques indépendantes et comptables : lorsqu'ils préparent ou effectuent des transactions pour leurs clients dans le cadre des activités suivantes :

- a. achat et vente de biens immobiliers ;
- b. gestion des capitaux, des titres ou autres actifs du client ;
- c. gestion de comptes bancaires, d'épargne ou de titres ;
- d. souscription aux apports pour la création, l'exploitation ou la gestion de sociétés commerciales;
- e. création, exploitation, gestion de personnes morales ou d'entités juridiques, d'achat et de vente d'entités commerciales.

Ingingo ya 13: Imyirondoro y'abakiriya badahoraho

Imyirondoro y'abakiriya badahoraho ifatwa, nk'uko bisobanurwa n'ingingo ya 10 y'iri tegeko, mu gihe habayeho ibikorwa by'amafaranga angana nibura n'ikigero cyashyizweho n'ishami rishinzwe iperereza ku mari. Uwo mwirondoro usabwa na

Article 13 : Identification of occasional customers

Occasional customers shall be identified as described in Article 10 of this Law in the case of transactions involving an amount equivalent to at least the threshold set by the Financial Investigation Unit. This identification shall also

Article 13: Identification des clients occasionnels

Les clients occasionnels sont identifiés de la manière prévue à l'article 10 de la présente loi à l'occasion des opérations mettant en jeu une somme d'au moins égale au seuil fixé par la cellule de renseignements financiers. Cette

none iyo habayeho igikorwa icyo ari cyo cyose gifite agaciro k'amafaranga ari munsi y'icyo kigero iyo icyo gikorwa ari kimwe mu bikorwa bifitanye cyangwa bisa n'aho bifitanye isano, kandi igiteranyo cyabyo byose gifite agaciro karenga icyo kigero.

Ingingo ya 14: Imyirondoro ya nyir'ubwite

Igihe cyose habayeho gushidikanya niba umukiriyi akora mu izina rye, banki cyangwa ikigo cy'imari bigomba kumenya amakuru ku buryo bwose bushoboka kugira ngo hakorwe umwirondoro nyawo w'umuntu shingiro umukiriyi akorera.

Nyuma y'igenzura, iyo ugushidikanya ku mwirondoro wa nyir'umutungo gukomeje, ikigo cy'imari gikora rapor y'imrimo ikemangwa kikayishyikiriza ishami rishinzwe iperereza ku mari.

Ingingo ya 15: Gukurikiranira hafi ibikorwa bimwe na bimwe ku buryo bwihariye

Abashinzwe gutanga amakuru basabwa gukurikiranira hafi ku buryo bwihariye ibikorwa bikomatanyije, bidasanzwe, cyangwa bahanitse ku buryo bwihariye, bigaragara ko bitagamije ubukungu cyangwa bidafite intego igaragara yemewe n'amategeko. Bagomba gusuzuma neza amavu n'amavuko ndetse n'ikigamijwe n'ibyo bikorwa, bagashyira mu nyandiko ibyo babonye hanyuma bagashyikiriza rapor Ihami rishinzwe

be requested for any transaction whose amount is less than this threshold if it comprises of a part of the whole of transactions which are or seem to be linked and the total of which exceeds the threshold.

Article 14: Identification of the owner

Whenever there is uncertainty as to whether the customer acts on his/her personal behalf, the bank or the financial institution shall by all means obtain information in order to establish the exact identity of the principal or the stakeholder on behalf of whom the customer acts.

After verification, if the uncertainty persists on the identity of the economic beneficiary, the financial institution shall make a report on a suspicious transaction and forwards it to the Financial Investigation Unit.

Article 15: Special monitoring of certain transactions

Reporting authorities are required to pay special attention to all complex, unusual patterns of transactions or exceptionally large transactions, which have no apparent economic or visible lawful purpose. They must examine the background and purpose of such transactions, establish the findings in writing, and transmit the report to the Financial Investigation Unit.

identification est également exigée pour toute opération dont le montant est inférieur à ce seuil si elle fait partie d'un ensemble d'opérations qui sont ou semblent liées et dont le total dépasserait ce seuil.

Article 14: Identification du propriétaire

Lorsqu'il n'est pas certain qu'un client agit pour son propre compte, la banque ou l'institution financière doit se renseigner par tout moyen pour établir l'identité exacte du mandant ou de la partie prenante pour le compte duquel agit le client.

Après vérification, si le doute persiste sur l'identité de l'ayant droit économique, l'institution financière procède à la déclaration de soupçon à la Cellule de renseignements financiers.

Article 15: Suivi spécial de certaines opérations

Les entités déclarantes sont tenues de porter une attention particulière à toutes les opérations complexes, inhabituelles ou exceptionnellement importantes, ou celles qui n'ont pas de cause apparente, économique ou manifestement licite. Elles sont tenues d'examiner le contexte et l'objet de ces opérations, de dresser par écrit les constatations faites et transmettre le rapport à la Cellule de renseignements financiers.

iperereza ku mari.

Abashinzwe gutanga amakuru basabwe gukurikiranira hafi imishyikirano ndetse n'ibikorwa mu rwego rw'ubucuruzi bagirana n'abantu baba mu bihugu bigaragara ko, mu rwego rwo kurwanya iyezandonke, bidakurikiza cyangwa bikurikiza mu buryo butuzuye ingingo z'amategeko zisa n'iziteganijwe muri iri tegeko

Ingingo ya 16: Inshingano y'ubushishozi ku byerekeye umuntu ugaragara mu rwego rwa politiki

Ku byerekeye umuntu ugaragara mu rwego rwa politiki, abashinzwe gutanga amakuru basabwa, hamwe no gushyira mu bikorwa ingamba ziboneye:

- 1° kugira uburyo buhamye bwo gukumira ibibazo kugira ngo babashe kugaragaza niba umukirya ari umuntu ugaragara mu rwego rwa politiki;
- 2° kubona uruhushya ruturutse ku buyobozi bukuru bwabo mbere yo gutangira imikoranire y'ubucuruzi n'uwo mukirya;
- 3° gufata ingamba zikwiriye zo kumenya aho imitungo ye n'amafaranga bituruka;
- 4° gukomeza gukurikiranira hafi imikorere y'uwo mukirya.

In order to fight money laundering, reporting authorities are required to pay special attention to their business relationships and transactions with persons residing in countries which do not apply regulations for combating money laundering or apply insufficiently regulations equivalent to those provided for in this Law.

Article 16: Due diligence related to a political Leader

In case relating to a political Leader, reporting authorities, in addition to performing normal due diligence measures, must be required to:

- 1° have appropriate risk management systems to determine whether the customer is a political Leader;
- 2° obtain employer approval for establishing business relationships with such a customer;
- 3° take all reasonable measures to establish his/her source of wealth and source of funds;
- 4° conduct monitoring of the business relationship with such a client.

Les entités déclarantes sont tenues de porter une attention particulière à leurs relations d'affaires et opérations avec les personnes résidant dans les pays qui, pour lutter contre le blanchiment de capitaux, n'appliquent pas ou appliquent insuffisamment des règles équivalentes à celles prévues dans la présente loi.

Article 16: Devoir de vigilance relatif à une haute personnalité politique

Les entités déclarantes sont tenues, dans le cas d'une haute personnalité politique, d'appliquer les mesures de vigilance normales et de :

- 1° disposer de systèmes de gestion des risques adéquats afin de déterminer si le client est une haute personnalité politique;
- 2° obtenir l'autorisation de l'employeur avant de nouer une relation d'affaires avec un tel client;
- 3° prendre toutes mesures nécessaires pour identifier l'origine du patrimoine et des fonds;
- 4° assurer une surveillance des relations d'affaires avec ce client.

Ingingo ya 17: Ishyingurwa ry'inyandiko

Abashinzwe gutanga amakuru babika inyandiko ku makuru ajyanye n'imyirondoro bamenye cyangwa bagejejweho mu gihe cy'ikurikirana ry'umukiriya mu gihe nibura cy'imyaka icumi (10) nyuma y'uko imikoranire n'umukiriya mu rwego rw'ubucuruzi irangiye. Iyo ari umukiriya udasanzwe, icyo gihe cy'imyaka icumi kibarwa uhoreye ige igikorwa runaka kirangiriye.

Abashinzwe gutanga amakuru babika, nibura mu gihe cy'imyaka icumi (10), inyandiko zose za ngombwa z'ibikorwa byaba ibyo mu gihugu cyangwa mu rwego mpuzamahanga.

Abantu basabwa gukorana ubushishozi mu kubika ibitabo bya konti n'amabaruwa mu gihe nibura cy'imyaka icumi (10) nyuma y'uko imikoranire n'umukiriya irangiye.

Amakuru ajyanye n'imyirondoro n'inyandiko z'ibikorwa zigomba guhita zihabwa umuyobozi wo mu gihugu ubisabye iyo abashinzwe kandi abiherewe uburenganzira n'ishami rishinzwe iperereza ku mari.

Ingingo ya 18: Imenyekanisha ry'amafaranga yishyuriweho

Abashinzwe gutanga amakuru bagaragariza ishami rishinzwe iperereza ku mari, mu buryo no mu bihe bitemanywa n'amabwiriza y'iryo shami, ibikorwa byose bijyanye n'amafaranga ahise yishyurwa ari mu kigero kigenwa n'iryo shami, keretse iyo

Article 17: Record-keeping

Reporting authorities shall keep records on the identification data obtained through or presented during the customer due diligence process within a period of at least ten (10) years after the end of the business relationship. In the case of an occasional customer, the ten (10) year period shall start from the conclusion of the transaction.

Reporting authorities shall maintain, in a period of at least ten (10) years, all necessary records on transactions at the national or international level.

Persons required to exercise due diligence shall maintain account books and business correspondence in a period of at least ten (10) years after the end of the business relationship.

Identification data and transaction records are immediately given to the requesting competent domestic authorities upon authorization by the Financial Investigation Unit.

Article 18: Declaration of cash transactions

Reporting authorities shall indicate to the Financial Investigation Unit, in an appropriate form and time determined by regulations set by that Unit, all cash transactions within the threshold set out by the Unit, unless the sender

Article 17: Conservation des documents

Les entités déclarantes conservent les données d'identification obtenues ou présentées dans le cadre de l'exercice du devoir de diligence pendant au moins dix (10) ans après l'expiration des relations d'affaires. Dans le cas d'un client occasionnel, cette période de dix (10) ans est calculée dès l'achèvement de l'opération.

Les entités déclarantes conservent, pendant au moins dix (10) ans, toutes les pièces nécessaires se rapportant aux opérations, tant nationales qu'internationales.

Les personnes tenues à l'obligation de diligence conservent les livres de comptes et la correspondance commerciale pendant au moins dix (10) ans après l'expiration des relations d'affaires.

Les données d'identification et les pièces se rapportant aux opérations sont mises à la disposition des autorités nationales requérantes sur autorisation de la cellule de renseignement financier.

Article 18: Déclaration des opérations réglées au comptant

Les entités déclarantes signalent à la cellule de renseignement financier sous la forme et dans les délais prescrits par règlement établi par celle-ci, toute opération en espèces au seuil fixé par la cellule, sauf si l'expéditeur et le

uyohereza n'uyoherererezwa ari amabanki cyangwa ibindi bigo by'imari.

Abashinzwe gutanga amakuru bagomba kugaragariza ishami rishinzwe ipererezwa ku mari igikorwa cyose gifite agaciro k'amafaranga ari munsi y'ikigero kivugwa mu gika cya mbere, iyo icyo gikorwa ari kimwe mu bindi bikorwa bifitanye isano cyangwa bisa n'aho bifitanye isano, kandi igiteranyo cyabyo byose gifite agaciro karenga icyo kigero.

Ingingo ya 19 : Gahunda z'abashinzwe gutanga amakuru zerekeye kurwanya iyezandonke

Abashinzwe gutanga amakuru bagomba gushyiraho no gukomeza gahunda zo kurwanya Iyezandonke no gutera inkunga iterabwoba. Muri izo gahunda harimo izi zikurikira :

- 1° kunoza politiki, imirongo ngenderwaho mu mikorere, igenzura, harimo ingamba z'igenzuramikorere mu itangwa ry'akazi hagamijwe gusuzuma ko gatangwa hubahirijwe ibisabwa;
- 2° gushyiraho ubugenzuzi ku rwego rw'ubuyobozi;
- 3° gukomeza gahunda yo guhugura abakozi;
- 4° gahunda ihoraho y'igenzura kugira ngo ingamba zafashwe zikurikizwe kandi zigere ku ntego mu rwego rwo gushyira mu bikorwa iri tegeko.

and the recipient are banks or financial institutions.

Reporting authorities must indicate to the Financial Investigation Unit all transactions equivalent to the amount less than the threshold indicated in paragraph One, if they are part of a whole of transactions which are or seem to be linked and the total of which would exceed the threshold.

Article 19: Programs of reporting authorities

Reporting authorities shall develop and maintain programs which are against money laundering and financing of terrorism. These programmes include:

- 1° the improvement of policies, procedures and controls, including recruitment supervision mechanisms to check whether recruitment requirements are satisfactorily complied with;
- 2° the designation of inspections at the management level;
- 3° an ongoing employee training programme;
- 4° a permanent audit function to ensure the conformity and the efficiency of the adopted measures in order to apply this Law.

destinataire sont des banques ou autres établissements financiers.

Les entités déclarantes sont tenues de signaler à la cellule de renseignements financiers toute opération dont le montant est inférieur au seuil indiqué à l'alinéa 1, si elle fait partie d'un ensemble d'opérations qui sont ou semblent liées et dont le total dépasserait ce seuil.

Article 19: Programmes des entités déclarantes

Les entités déclarantes doivent mettre au point et entretenir des programmes de lutte contre le blanchiment de capitaux et le financement du terrorisme. Ces programmes comprennent :

- 1° l'amélioration des politiques, des procédures et des contrôles internes, y compris des mécanismes de supervision de recrutement pour s'assurer du respect des conditions de recrutement;
- 2° la désignation de contrôleurs au niveau de la direction;
- 3° un programme de formation continue des employés ;
- 4° un dispositif de vérification permanent pour s'assurer de la conformité et de l'efficacité des mesures adoptées pour appliquer la présente loi.

Abayobozi bafite mu nshingano zabo kugenzura abashinzwe gutanga amakuru, bashobora kugaragaza ibikubiye muri gahunda yo gukumira iyezandonke ndetse n'uburyo bwo kubishyira mu bikorwa. Bakora iperereza, igihe bibaye ngombwa kugira ngo bagenzure ishyirwa mu bikorwa ry'izi gahunda.

**UMUTWE WA III: GUKUMIRA, GUTAHURA
IYEZANDONKE N'INKUNGA
Z'ITERABWOBA**

**Ingingo ya 20: Ishyirwaho ry'Ishami
ry'Iperereza ku mari, imiterere, imikorere
n'inshingano byaryo**

Hashyizweho Ishami rishinzwe iperereza ku mari ritwa "Cellule de Renseignements Financiers" CRF mu magambo ahinnye y'igifaransa. Iteka rya Perezida rigena imiterere, imikorere n'ishingano by'iro shami rikagena urwego iredy shami rikoreramo.

**Ingingo ya 21 : Imenyekanisha ry'ibikorwa
n'amafaganga bikemangwa**

Igihe cyose hari impamvu zituma amabanki, ibindi bigo by'imari, indi miryango cyangwa abandi bantu birebwa n'ingingo ya 3 y'iri tegeko, bikeka ko amafaranga cyangwa iyimura ryayo bifitanye isano cyangwa bigamije gukoreshwa mu bikorwa by'yezandonke cyangwa byo gutera inkunga iterabwoba, mu bikorwa by'iterabwoba cyangwa

Supervising authorities of reporting entities may disclose the contents and the modalities of implementation of the preventive programmes for money laundering. They shall perform, where relevant, in situ investigations in order to verify the good implementation of these programmes.

**CHAPTER III : PREVENTION AND
DETECTION OF MONEY LAUNDERING
FINANCING TERRORISM**

**Article 20: Establishment, organization,
functioning and mission of the Financial
Investigation Unit**

There shall be established a Financial Investigation Unit referred to as (Cellule de Renseignements Financiers) CRF in French abbreviation. A Presidential Order shall determine the organization, functioning, mission and parent institution of the Unit.

**Article 21: Declaration of suspicious
transaction and funds**

Banks, financial institutions and other legal persons subject to provisions of Article 3 of this Law shall, whenever they have reasonable motives to suspect that the funds or movement of funds are/is linked, associated or destined to be used in money laundering activities or for financing terrorism, terrorism or acts of terrorism

Les autorités de contrôle des entités déclarantes peuvent préciser le contenu et les modalités d'application des programmes de prévention du blanchiment de capitaux. Elles effectuent, le cas échéant, des investigations sur place afin de vérifier la bonne application de ces programmes.

**CHAPITRE III : PREVENTION ET
DETECTION DU BLANCHIMENT DE
CAPITAUX ET DU FINANCEMENT DU
TERRORISME**

**Article 20: Création, organisation,
fonctionnement et mission de la Cellule de
Renseignements Financiers**

Il est institué une cellule de renseignements financiers, ci-après dénommée « Cellule de renseignements financiers » CRF en sigle. Un arrêté présidentiel détermine l'organisation, le fonctionnement, les missions de cette Cellule et détermine également l'institution à laquelle elle est rattachée.

**Article 21 : Déclaration des transactions et
fonds suspects**

Lorsqu'ils ont des motifs raisonnables de suspecter que des fonds ou mouvements de fonds sont liés, associés ou destinés à être utilisés dans les opérations de blanchiment de capitaux et/ou pour le financement du terrorisme, des actes terroristes ou des organisations terroristes, les banques, les

by'udutsiko tw'iterabwoba, bigomba guhita bibimenyesha Ishami rishinzwe iperereza ku Imari. Ayo makuru atangwa mu ibanga kandi ntashobora kumenyeshwa nyir'ibikorwa cyangwa nyir'ukubikora.

Iyo raporo imaze gutangwa hakurikijwe ibivugwa mu gika cya mbere cy'iyi ngingo, abashinzwe gutanga amakuru bagomba guhita batanga amakuru y'inyongera ashobora kwemeza cyangwa kuvanaho ibikemangwa.

Ingingo ya 22: Inshingano zo kutamena amabanga

Abashinzwe gutanga amakuru ntibashobora na rimwe guhishurira abakiriya babo cyangwa abandi bantu ko amakuru yatanzwe ku Ishami rishinzwe iperereza ku mari, cyangwa ko raporo ijyanye n'iyezandonke cyangwa gutera inkunga iyezandonke yatanzwe.

Ingingo ya 23 : Urutonde rw'abakora iterabwoba n'abaritera inkunga

Ishami rishinzwe iperereza ku mari rikora, hakurikijwe imyanzuro y'Umuryango w'Abibumbye yo gukumira no guca iterankunga ry'iterabwoba, urutonde rw'abantu cyangwa imiryango bigomba gufatirwa ibyemezo kubera ko byagaragaweho gukora iterabwoba, gukorana n'abakora iterabwoba cyangwa gutera inkunga

or of terrorist organizations, report immediately their suspicion to the Financial Investigation Unity. These reports are confidential and cannot be communicated to the owner or the author of the transaction.

Once a report is presented in conformity with the provisions of paragraph One of this Article, the reporting entities shall also convey without delay any additional information confirming or denying suspicion.

Article 22 : Obligation of discretion

Reporting entities can in no way reveal to their customers or third parties that information has been communicated to the Financial Investigation Unity or that a report related to money laundering or financing of terrorism has been submitted.

Article 23: List of terrorists and their financiers

In accordance with the United Nations Resolutions for the prevention and suppression of the financing of terrorist acts, the Financial Investigation Unit shall establish a list of natural or legal persons and organizations who shall be subject to restrictive measures as terrorists or linked to terrorist organizations or financing

établissements financiers et les autres personnes assujetties au titre de l'article 3 de la présente loi doivent déclarer rapidement leurs soupçons à la Cellule de renseignements financiers. Ces déclarations sont confidentielles et ne peuvent être communiquées au propriétaire ou à l'auteur des opérations.

Dès qu'une déclaration a été présentée en application des dispositions de l'alinéa premier du présent article, les entités déclarantes doivent également communiquer sans délai toute information complémentaire pouvant confirmer ou dissiper les soupçons.

Article 22 : Obligation de discréption

Les entités déclarantes ne peuvent en aucun cas signaler à leurs clients ou à des tiers que des informations ont été communiquées à la Cellule de renseignements financiers ou qu'une déclaration relative au blanchiment de capitaux ou de financement du terrorisme a été transmise.

Article 23 : Liste des terroristes et de leurs bailleurs de fonds

La Cellule de renseignements financiers établit, conformément aux résolutions des Nations Unies relatives à la prévention et à la répression du financement des actes terroristes, une liste des personnes physiques ou morales et des organisations devant faire l'objet de mesures restrictives en tant que terroristes ou en relation

ibikorwa by'iterabwoba.

Ishami rishinzwe iperereza ku mari rikora urutonde rw'abantu cyangwa imiryango bifite amafaranga yafatiriwe n'ibigo bishinzwe imari n'abandi bantu barebwa n'iri tegeko, rikayigeza ku Mushinjacyaha Mukuru.

Ishami rishinzwe iperereza ku mari risuzuma niba amazina y'abantu ku giti cyabo cyangwa y'imiryango ari ku rutonde rwakozwe asobanutse neza kugira ngo hakorwe umwirondoro mu buryo bunoze.

Ingingo ya 24 : Ibanga

Abayobozi b'imirimo, abakozi b'Ishami rishinzwe iperereza ku mari, cyangwa undi muntu wahawe umwe mu mirimo yaryo bagomba kubika ibanga ry'amakuru bamenye bakora imirimo bashinzwe ndetse n'igihe batagikora iyo mirimo. Ayo makuru ntashobora gukoreshwa ku zindi mpamvu uretse izivugwa muri iri tegeko kandi ntashobora guhishurirwa undi keretse iyo hafashwe icyemezo cy'urukiko rubifitiye ububasha.

Ingingo ya 25: Ihagarika ry'agateganyo ry'umutungo cyangwa ry'ibikorwa

Bitewe n'uburemere bw'igikorwa cyangwa n'ubwihutirwe bwo kugikurikirana, Ishami

terrorism and terrorist organizations.

The Financial Investigation Unit shall set the list of persons, entities or organizations whose funds are frozen by the financial organisms and other persons subject to this Law and submit it to the Prosecutor General.

The Financial Investigation Unit shall ensure that the names of natural or legal persons figuring in the set list are sufficiently detailed in order to allow an effective identification.

Article 24: Confidentiality

The executive officers, employers or agents of the Financial Investigation Unit or any other person appointed to one of these posts must preserve the confidential character of the informations obtained in the exercise of their official duties, as well as when they have ceased to exercise these duties. These information cannot be used for purposes other than the ones provided for by this Law and cannot be revealed unless there is a decision of the competent Court.

Article 25: Temporary freezing of assets and transactions

Due to the gravity of a transaction or the urgency to confront it, the Financial Investigation Unit

avec des organisations terroristes ou qui financent le terrorisme et les organisations terroristes.

La Cellule de renseignements financiers arrête la liste des personnes, entités ou organisations dont les fonds sont gelés par les institutions financières ou les autres personnes assujetties à la présente loi et la transmet au Procureur Général.

La Cellule de renseignements financiers veille à ce que les noms des personnes physiques ou morales qui sont énumérés sur la liste qu'elle arrête comportent des précisions suffisantes pour permettre leur identification effective.

Article 24 : Confidentialité

Les dirigeants, employés ou agents de la Cellule de renseignements financiers ou toute autre personne nommée à un de ses emplois sont tenus de préserver le caractère confidentiel des informations obtenues dans l'exercice de leurs fonctions, même après la cessation de fonction. Ces informations ne peuvent être utilisées à des fins autres que celles prévues par la présente loi et ne peuvent être divulguées sauf sur décision de la juridiction compétente.

Article 25 : Gel temporaire des biens et des opérations

En raison de la gravité d'une opération ou de l'urgence d'y faire face, la Cellule de

rishinzwe iperereza ku mari rishobora gufata icyemezo cyo guhagarika by'agateganyo umutungo cyangwa ibikorwa mu gihe kidashobora kurenga amasaha mirongo ine n'umunani (48) kandi rigahita ritangariza uwatanze amakuru icyemezo ryafashe. Muri icyo gihe, Ishami rishinzwe iperereza ku mari ryohereza dosiye Ubushinjacyaha Bukuru iyo impamvu zashingiweho kugira ngo bakeke ko habaye iyezandonke zifite ishingiro, bitagenze bityo icyemezo cy'ihagarika gikurwaho bigahita bimenyeshwa uwatanze amakuru.

Igihe cyose Ubushinjacyaha Bukuru burimo kwiga iyo dosiye bushobora kongeraho iminsi irindwi (7) ku gihe cy'ihagarika bukamenyesha mu nyandiko abashinzwe gutanga amakuru.

Ubushinjacyaha buhita bwohereza dosiye mu Rukiko rubifitiye ububasha kugira ngo rufate icyemezo cyo guhagarika by'agateganyo umutungo cyangwa ibikorwa. Igihe Urukiko rubifitiye ububasha rurimo kwiga ihagarika ryasabwe rushobora kongera igehe kivugwa mu gika kibanziriza iki.

Ingingo ya 26: Uburyo bwihariye bw'iperereza

Kugira ngo haboneke ibimenyetso by'ibyaha bivugwa muri iri tegeko, Urukiko rubifitiye ububasha rushobora gusaba mu gihe runaka:

1° gukurikiranira hafi konti za banki n'ibindi bisa nazo;

may pronounce the freezing of the property or the transactions for a period that cannot exceed fourty eight hours (48) hours and shall immediately communicate its decision to the reporting entity. During this time, the Financial Investigation Unit shall refer the case to the National Public Prosecutor Authority if the reasons on the basis of a presumption of money laundering are conclusive and, or in the case to the contrary, lift the freezing order and inform immediately the reporting entity.

The National Public Prosecutor Authority may, as long as it is handling the case, extend the order on the freezing of property or transactions for an additional period of seven (7) days and notifies in writing the reporting entity.

The National Public Prosecutor Authority shall immediately refer the case to the competent Court so that it pronounces the property or transactions freezing. Examining the request, the competent Court may extend the period provided for in the prior paragraph.

Article 26: Special investigative techniques

In order to obtain evidence related to the offences under this Law, the competent Court may require, for a given period:

1° monitoring of bank accounts and other related matters;

renseignements financiers peut prononcer le gel de biens ou d'opérations pour un délai ne pouvant pas dépasser (48) heure et doit immédiatement communiquer sa décision à l'entité déclarante. Pendant ce délai, la Cellule de renseignements financiers doit saisir l'Organe National de Poursuite Judiciaire si les raisons à la base de la présomption de blanchiment de capitaux sont concluantes et, ou dans le cas contraire, lever l'ordre de gel et en informer immédiatement l'entité déclarante.

L'Organe National de Poursuite Judiciaire peut, pendant qu'il est saisi du dossier, proroger l'ordre de gel des biens ou des opérations, pendant une période supplémentaire de sept (7) jours et notifie par écrit l'entité déclarante.

L'Organe National de Poursuite Judiciaire doit immédiatement saisir la juridiction compétente pour qu'elle prononce le gel des biens ou des opérations. La juridiction compétente, pour l'examen de la demande de gel, peut proroger le délai prévu à l'alinéa précédent.

Article 26: Techniques d'enquête spéciales

Afin d'obtenir des preuves relatives aux infractions prévues par la présente loi, la juridiction compétente peut exiger pendant une période donnée :

1° la surveillance des comptes bancaires et assimilés;

2° kugera ku buryo bukoreshwa na za mudasobwa, ku miyoboro n'ububiko bwazo;	2° access to systems, networks and computer servers;	2° l'accès à des systèmes, réseaux et serveurs informatiques;
3° gukurikirana cyangwa kumva ibivugirwa kuri telefone, telefagisi, ibindi bikoresho by'itumanaho rya kure cyangwa ihererekanya ry'amakuru ku byuma kabuhariwe by'itumanaho, hifashishijwe icyuma kigenzura amajwi;	3° monitoring or listening through sound control unit of telephone, telefax, equipment of telecommunications or electronic transmissions;	3° la mise sous surveillance ou sur table d'écoute de lignes de téléphone, de télécopie, de matériel de télécommunications ou de transmissions électroniques;
4° gufata amajwi n'amashusho y'ibikorwa, imyifatire cyangwa ibiganiro ;	4° audio-visual recording of actions, behaviors or conversations;	4° l'enregistrement audio-visuel d'actions, comportements ou conversations;
5° guhabwa inyandiko ziriho umukono wa noteri n'inyandiko z'umuntu bwite cyangwa amakuru yerekeye amabanki, imari cyangwa ubucuruzi.	5° communication of notarized private banking, financial or commercial information documents.	5° la communication d'actes notariés et privés ou d'informations bancaires, financières ou commerciales.

Urukiko rubifitiye ububasha rushobora no gutegeka ko hafatirwa inyandiko zavuzwe mu gace ka 5° k'igika cya mbere cy'iyi ngingo;

Icyakora, ibyo bikorwa bishoboka gusa iyo hari impamvu zifatika zo gukeka ko amakonti, imiyoboro ya telefoni, imikorere cyangwa uruhurirane rw'isesenguramakuru cyangwa inyandiko byakoreshejwe cyangwa biteganywa gukoreshwa muri gahunda y'iyezandonke cyangwa gutera inkunga iterabwoba.

Ingingo ya 27: Isonerwa ry'uburyozwe

Nta rubanza cyangwa ikirego cy'uburyozwe mu rwego mbonezamubano, rw'ubutegetsi cyangwa mpanabyaha bishobora gushozwa, nta n'igihano kijyanye n'umwuga kigenerwa Umuyobozi

The competent Court may also order the seizure of the documents provided for in subparagraph 5° of the paragraph One of this Article.

However, these acts shall be only valid if there are strong grounds to suspect that the accounts, telephone lines, systems or data-processing networks or documents are used or likely to be used in a money laundering or terrorist financing process.

Article 27: Exemption of liability

No proceedings or action of civil, administrative or penal liability can be brought, nor any professional sanction decreed against the Director of the Financial Investigation Unit,

La Juridiction Compétente peut également ordonner la saisie des documents mentionnés au point 5° de l'alinéa 1 du présent article.

Toutefois, ces démarches ne sont valables que s'il y a de fortes raisons de croire que les comptes, lignes téléphoniques, systèmes ou réseaux informatiques ou documents sont utilisés ou risquent d'être utilisés à un processus de blanchiment de capitaux ou de financement du terrorisme.

Article 27: Exemption de responsabilité

Aucune poursuite ou action en responsabilité civile, administrative ou pénale ne peut être intentée, ni aucune sanction professionnelle prononcée contre le Directeur de la Cellule de

w'Ishami rishinzwe iperereza ku mari, abamwungirije, abakozi cyangwa impuguke iyo bujuje inshingano zabo nta buriganya nk'uko biteganywa n'iri tegeko.

Icyakora, iyo bigaragaye ko hari umuntu mu bamaze kuvugwa wakoze ikosa abigambiriye, ahanwa hakurikijwe amategeko.

Nta kurikiranwa ryerekeranye no kumena ibanga ry'akazi rishobora gukorerwa abayobozi b'imirimo n'abakozi b'abashinzwe gutanga amakuru mu gihe bayatanze cyangwa batanze raporo ziteganywa n'iri tegeko, batagambiriye gukora nabi, n'ubwo amaperereza cyangwa imyanzuro y'urukiko ntawe yaba yahamije icyaha.

Nta rubanza rw'uburyozwe bw'indishyi, nshinjabyaha cyangwa rwo mu rwego rw'akazi rushobora gushorwa ku bayobozi b'imirimo n'abakozi b'abashinzwe gutanga amakuru bitewe n'iyangirika ry'ibantu bifatika cyangwa bidafatika biturutse ku guhagarika ibikorwa.

Iyo habayeho ibangamirwa rikomoka ku buryo butaziguye kuri raporo y'ibikorwa bikemangwa yakozwe nta mugambi mubi, Leta iryozwa ingaruka zabaye hashingiwe ku biteganywa no ku bipimo ntarengwa bishyirwaho n'amategeko y'u Rwanda.

deputies director, its employees, agents or experts when having acted in good faith in the exercise of their official duties in accordance with provisions under this Law.

However, when it is established that one or the other person among those above mentioned has acted in bad faith, he/she shall be punished in conformity with laws.

No proceedings for breach of professional secrecy can be brought against the executive officers and employees of reporting entities which, in good faith, have transmitted information or submitted the reports provided for in this Law, even if the investigations or the Court Orders did not result in any conviction.

No proceedings of civil, penal or professional liability can be brought against the executive officers and employees of the reporting entities due to material or non material damages resulting from the blocking of a transaction.

In case of prejudice resulting directly from a bona fide statement of suspicion, the State shall be liable for the damage suffered under the conditions and scope of the Republic of Rwanda legislation.

renseignements financiers, les Directeurs adjoints, ses employés, agents ou experts ayant agi de bonne foi dans l'exercice de leurs fonctions conformément aux dispositions prévues par la présente loi.

Toutefois, s'il est établi que l'une ou l'autre des personnes susmentionnées a agi de mauvaise foi, elle est sanctionnée conformément à la loi.

Aucune poursuite pour violation du secret professionnel ne peut être engagée contre les personnes ou les dirigeants et préposés des entités déclarantes qui, de bonne foi, ont transmis les informations ou fait les déclarations prévues par les dispositions de la présente loi, même si les enquêtes ou les décisions judiciaires n'ont donné lieu à aucune condamnation.

Aucune action en responsabilité civile, pénale ou professionnelle ne peut être intentée contre les dirigeants et préposés des entités déclarantes du fait des dommages matériels ou immatériels qui pourraient résulter du blocage d'une opération.

En cas de préjudice résultant directement d'une déclaration de soupçons de bonne foi, l'Etat répond du dommage subi aux conditions et dans les limites de la législation de la République du Rwanda.

**UMUTWE WA IV: UBUFATANYE
MPUZAMAHANGA**

Ingingo ya 28: Ubufatanye n'izindi Leta

Leta y'u Rwanda, igirana ubufatanye n'izindi Leta mu rwego rwo guhana amakuru, iperereza n'ikurikirana bigamije ibyemezo bishingana by'agateganyo, ifatira n'ubunyage bw'ibikoresho, amafaranga n'umutungo bifitanye isano n'iyezandonke no gutera inkunga iterabwoba, ku mpamvu zo guhererekanya abanyabyaha n'iz'ubufatanye mu bya tekiniki.

Ingingo ya 29: Ikigamijwe mu gusaba ubufatanye

Bisabwe na Leta yo hanze, isaba ry'ubufatanye mu byerekeranye n'ibyaha bivugwa mu ngingo ya 2, agace ka 1° n'iya 4 z'iri tegeko, bikorwa ku buryo bujyanye n'amahame asobanurwa n'iri tegeko.

Mu bufatanye hashobora kubamo:

- 1° gusaba ibimenyetso cyangwa ubuhamya ku bantu ;
- 2° gufasha abayobozi b'inzego z'ubutabera za Leta y'igihugu gisaba ubufatanye, kugera ku bantu bafunze cyangwa abandi bantu kugira ngo batange ubuhamya cyangwa bafashe iperereza;
- 3° gutanga inyandiko iyo ari yo yose ijyanye n'ubucamanza ;

CHAPTER IV: INTERNATIONAL COOPERATION

Article 28: Cooperation with other States

The Government of Rwanda shall cooperate with other States in the exchange of information, in investigation and in procedure, with regard to protective measures, seizures and confiscations of the instruments, funds and property related to money laundering and financing of terrorism, for purposes of extradition, and for purposes of mutual technical assistance.

Article 29: Purpose of the request for mutual assistance

The request for mutual legal assistance from a foreign State relating to the offences under Articles 2, 1° and 4 of this Law shall be carried out in accordance with the principles defined by this Law.

The cooperation may include :

- 1° collection of evidence or statements from persons;
- 2° assistance of foreign state legal authorities in providing access to detained persons or other persons in order to witness or to help in the enquiries;
- 3° providing of any judicial document;

CHAPITRE IV : COOPERATION INTERNATIONALE

Article 28: Coopération avec les autres Etats

L'Etat Rwandais coopère avec les autres Etats aux fins d'échange d'information, d'investigation et de poursuite, visant les mesures conservatoires, les saisies et les confiscations des objets, fonds et biens liés au blanchiment de capitaux et le financement du terrorisme, aux fins d'extradition et d'assistance technique mutuelle.

Article 29: Objet de demande d'entraide

Les demandes d'entraide en provenance d'un Etat étranger se rapportant aux infractions prévues aux articles 2, 1° et 4 de la présente loi sont exécutées conformément aux principes définis par la présente loi.

L'entraide peut notamment inclure :

- 1° le recueil de témoignages ou de dépositions ;
- 2° l'aide aux autorités judiciaires de l'Etat requérant en mettant à leur disposition des personnes détenues ou d'autres personnes, aux fins de témoignage ou d'assistance dans la conduite de l'enquête ;
- 3° la remise de tout document judiciaire ;

4° gusaka no gufatira ;	4° executing searches and seizures;	4° les perquisitions et les saisies ;
5° gusuzuma ibantu n'aho biri ;	5° examining objects and visiting sites;	5° l'examen d'objets et les descentes sur les lieux ;
6° gutanga amakuru n'ibindi byagaragaza ibimenyetso ;	6° providing information and items with evidential value;	6° la fourniture de renseignements et de pièces à conviction ;
7° gutanga impapuro z'umwimerere cyangwa ziriho umukono wa noteri, n'inyandiko za ngombwa harimo izerekeye amabanki, iz'ibaruramari n'izerekana imikorere y'ikigo cyangwa imirimo yacyo y'ubucuruzi.	7° providing originals or certified copies of relevant documents, including bank statements, accounting documents and registers showing the functioning of an enterprise or its commercial activities.	7° la présentation des originaux ou de copies certifiées conformes aux dossiers et documents pertinents y compris des relevés bancaires, des pièces comptables, des registres montrant le fonctionnement d'une entreprise ou ses activités commerciales.

Ingingo ya 30 : Kutemera ubufatanye

Gusaba ubufatanye bishobora gusa kwangwa iyo :

- 1° bishobora kubangamira umudendezo, ubusugire, umutekano cyangwa amahame remezo y'Itegeko Nshinga rya Repubulika y'u Rwanda ;
- 2° isaba ridaturutse ku buyobozi bubifitiye ububasha hashingiwe ku mategeko ya Leta isaba cyangwa iyo isaba ritoherejwe mu buryo bwemewe;
- 3° ibyo isaba rishingiraho bigikurikiranwa mu rwego mpanabyaha, byahaniwe cyangwa byafashweho icyemezo cy'urukiko kitagishobora kujuririrwa muri Repubulika y'u Rwanda;

Article 30: Refusal of cooperation

Request for cooperation may only be refused if :

- 1° it is likely to prejudice the public order, sovereignty, security or fundamental principles of the Constitution of the Republic of Rwanda;
- 2° the requesting authority is not competent under the requesting state Law or the request is not duly transmitted;
- 3° the facts on which the request is based have already been criminally processed, sentenced or definitively judged on the territory of the Republic of Rwanda;

Article 30: Refus de coopération

La demande d'entraide ne peut être refusée que si :

- 1° son exécution risque de porter atteinte à l'ordre public, à la souveraineté, à la sécurité ou aux principes fondamentaux énoncés dans la Constitution de la République du Rwanda;
- 2° elle n'émane pas d'une autorité compétente selon la législation du pays requérant ou n'est pas dûment envoyée;
- 3° les faits sur lesquels elle porte font l'objet de poursuites pénales, ont déjà fait l'objet de sanction ou d'une décision judiciaire coulée en force de chose jugée sur le territoire de la République du Rwanda;

4° icyaha isaba rishingiraho kitaba mu mategeko y'u Rwanda cyangwa kidahuje imiterere n'icyaha kiba mu mategeko ya Repubulika y'u Rwanda;

5° ibyemezo bisabwa cyangwa ibindi byemezo bifite ingaruka zimwe bitemewe n'amategeko ya Repubulika y'u Rwanda cyangwa bidashobora gukurikizwa ku cyaha isaba rishingiraho hakurikijwe amategeko ya Repubulika y'u Rwanda;

6° ibyemezo bisabwa bidashobora gufatwa cyangwa ngo byubahirizwe bitewe n'ubuzime bw'icyaha cy'iezandonke cyangwa cyo gutera inkunga iterabwoba nk'uko biteganywa n'amategeko ya Repubulika y'u Rwanda cyangwa aya Leta isaba;

7° icyemezo gisabwa gukurikizwa kidashobora kubahirizwa hakurikijwe amategeko ya Repubulika y'u Rwanda;

8° icyemezo giturutse mu kindi gihugu cyategetswe mu buryo budatanga icyizere gihagije mu birebana n'uburenganzira bwo kwiregura ;

9° hari impamvu zikomeye zemeza ko isaba rigamije gukurikirana cyangwa guhana umuntu bishingiye ku gitsina, ibara ry'uruhu, idini n'ubwenegihugu, ubwoko cyangwa ibitekerezo

4° the offence on which the request is based does not exist under the law of the Republic of Rwanda or does not have common characteristics with an offence existing under the law of the Republic of Rwanda;

5° the requested measures or other measures with similar effects are not authorized under the law of the Republic of Rwanda or can not be applied to the offences on which the request is based under the Law of the Republic of Rwanda;

6° the requested measures can not be decreed or executed because of the prescription of the crime of money laundering or financing terrorism under the Law of the Republic of Rwanda or under the Law of the requesting state;

7° the decision whose the implementation is requested is not binding under the legislation of the Republic of Rwanda;

8° the decision from another country has been ordered in conditions that do not offer sufficient guarantees regarding the rights to defend oneself;

9° there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on the basis of sex, race, religion, nationality,

4° l'infraction visée dans la demande n'est pas prévue par la législation de la République du Rwanda ou ne présente pas de caractéristiques communes avec une infraction prévue par la législation de la République du Rwanda;

5° les mesures sollicitées ou toutes autres mesures ayant des effets analogues, ne sont pas autorisées par la législation de la République du Rwanda ou ne sont pas applicables à l'infraction visée dans la demande d'après la législation de la République du Rwanda;

6° les mesures demandées ne peuvent être prises ou exécutées pour cause de prescription de l'infraction de blanchiment de capitaux ou de financement du terrorisme d'après la législation de la République du Rwanda ou celle de l'Etat requérant;

7° la décision dont l'exécution est demandée n'est pas exécutoire sous la législation de la République du Rwanda;

8° la décision étrangère a été prononcée dans des conditions n'offrant pas de garanties suffisantes au regard des droits de la défense;

9° il y a de sérieuses raisons de penser que les mesures demandées ou la décision sollicitée ne visent la personne concernée qu'en raison de son sexe, de sa race, de sa

bya politiki cyangwa imimerere ye;	ethnic origin or political opinions or status;	religion, de sa nationalité, de son origine ethnique, de ses opinions politiques ou de son statut ;
10° isaba rishingiye ku cyaha cya politiki cyangwa ritewe n'impamvu za politiki ;	10° the request is based on a political offence or is motivated by political consideration;	10° la demande porte sur une infraction politique ou est motivée par des considérations d'ordre politique ;
11° ikibazo kidafite uburemere buhwanye n'ubw'ibyemezo byasabwe cyangwa se n'ubw'ishyirwa mu bikorwa ry'icyemezo cy'urukiko rw'ikindi gihugu	11° the case is not important enough to justify the requested measures or the enforcement of the foreign court decision.	11° l'importance de l'affaire ne justifie pas les mesures réclamées ou l'exécution de la décision rendue à l'étranger.
Guverinoma ya Repubulika y'u Rwanda imenyesha bidatinze impamvu yanze kubahiriza ibisabwa.	The Government of the Republic of Rwanda shall communicate immediately the grounds for refusal of the request.	Le Gouvernement de la République du Rwanda communique sans délai au gouvernement étranger les motifs du refus d'exécution de sa demande.
<u>Iningo ya 31: Gusaba gukora anketi n'iperereza</u>	<u>Article 31 : Request for investigative and trial measures</u>	<u>Article 31: Demande d'enquête et d'instruction</u>
Gukora anketi n'iperereza, bikorwa hakurikijwe amategeko ya Repubulika y'u Rwanda keretse abayobozi babishinzwe bo mu kindi gihugu basabye ko bikorwa mu buryo bwihariye butanyuranije n'amategeko ya Repubulika y'u Rwanda.	Investigative and trial measures shall be executed in accordance with the laws of the Republic of Rwanda unless the competent authorities of a another State requires that it be proceeded according to a specific form compatible with the legislation of the Republic of Rwanda.	Les mesures d'enquête et d'instruction sont exécutées conformément à la législation de la République du Rwanda à moins que les autorités compétentes d'un autre Etat n'aient demandé qu'il soit procédé selon une procédure particulière compatible avec la législation de la République du Rwanda.
Umucamanza cyangwa umukozi wa Leta woherejwe n'ubuyobozi bwo mu kindi gihugu, ashobora gukurikirana iyubahirizwa ry'ibyo byemezo bitewe n'uko bikorwa n'umucamanza cyangwa umukozi wa Leta.	A Judge or a civil servant sent by the requesting State may attend to the enforcement of the measures depending on whether they are executed by a judge or a civil servant.	Un magistrat ou un fonctionnaire délégué par l'autorité compétente de l'Etat requérant peut assister à l'exécution des mesures selon qu'il s'agit d'un magistrat ou d'un fonctionnaire qui les exécute.

Ingingo ya 32: Gusaba ibyemezo bishingana by'agateganyo

Iyo igihugu cy'amahanga gisabye u Rwanda gufata ibyemezo bishingana by'agateganyo, Urukiko rubifitiye ububasha rufata ibyo byemezo hakurikijwe amategeko ya Repubulika y'u Rwanda. Iyo iryo saba ryanditse mu buryo rusange, urukiko rufata ibyemezo bishingana by'agateganyo bikwiye hakurikijwe amategeko y'u Rwanda.

Iyo ibyemezo bisabwa bidateganijwe n'amategeko y'u Rwanda, urukiko rubifitiye ububasha rushobora kubisimbuza ibyemezo bikwiye biteganywa n'amategeko ya Repubulika y'u Rwanda.

Ingingo ya 33: Gusaba ubunyage

Iyo habayeho gusaba ubufatanye ku mpamvu zo gufata ibyemezo byo kunyaga, Urukiko rubifitiye ububasha rufata icyemezo rubisabwe n'Ubushinjacyaha. Icyemezo cy'ubunyage kireba umutungo ugizwe n'ibikomoka cyangwa ibyakoreshejwe ku cyaha biri ku butaka bwa Repubulika y'u Rwanda cyangwa kigategeka kwishyura amafaranga angana n'agaciro k'uwo mutungo.

Urukiko rubifitiye ububasha igihe rwiga isaba ryo kubahiriza icyemezo cy'ubunyage cyafatiwe mu kindi gihugu, rusuzuma iby'icyo cyemezo cyashingiyeho, rukaba rwakwanga gushyira mu

Article 32: Request for protective measures

In case Rwanda is requested by another State for purposes of pronouncing protective measures, a competent Court shall order the aforementioned solicited protective measures according to the proper Rwandan legislation. If the request is written in general terms, the Court pronounces the most appropriate protective measures provided for by the Rwandan legislation.

In case the requested measures are not provided for by the Rwandan law, the competent Court may substitute them with appropriate measures provided for by the Rwandan law.

Article 33: Request for confiscation

In the case of a request for cooperation for the purpose of pronouncing a decision for seizure, a competent Court shall take a decision upon request of the National Public Prosecutor Authority. The decision of seizure shall concern an asset constituting the product or the instrument of an offence taking place on the territory of the Republic of Rwanda, or creating an obligation to pay an amount of money corresponding to the value of this asset.

The competent Court dealing with a request relating to the enforcement of a decision of dispossession pronounced abroad examines the facts on which the decision was based and can

Article 32: Demande de mesures conservatoires

Lorsqu'un Etat étranger demande au Rwanda de prendre des mesures conservatoires, la juridiction compétente du Rwanda ordonne lesdites mesures sollicitées conformément à la législation rwandaise. Si la demande est rédigée en termes généraux, la juridiction prononce les mesures les plus appropriées prévues par la législation rwandaise.

Dans le cas où les mesures sollicitées ne sont pas prévues par la législation rwandaise, la juridiction compétente peut leur substituer les mesures appropriées prévues par la législation de la République du Rwanda.

Article 33: Demande de confiscation

Dans le cas d'une demande d'entraide judiciaire à l'effet de prononcer une décision de confiscation, la juridiction compétente statue sur saisine de l'Organe National de Poursuite Judiciaire. La décision de confiscation doit viser un bien constituant le produit ou l'instrument ayant servi à commettre une infraction se trouvant sur le territoire de la République du Rwanda, ou peut consister en l'obligation de payer une somme d'argent correspondant à la valeur de ce bien.

La juridiction compétente saisie d'une demande relative à l'exécution d'une décision de confiscation prononcée à l'étranger examine les faits sur lesquels se fonde la décision et ne peut

bikorwa iryo saba bitewe gusa n'impamvu imwe mu zivugwa mu ngingo ya 30 y'iri tegeko.

Ingingo ya 34: Iherezo ry'umutungo wanyazwe

Leta y'u Rwanda ifite ububasha bwo gukoresha uko ishaka umutungo wanyagiwe ku butaka bwayo bisabwe n'ikindi gihugu, keretse iyo amasezerano yakoranywe n'ighugu kibisaba abiteganya ukundi.

Ingingo ya 35: Gusaba guhererekanya abanyabyaha

Isaba ryerekeye kohererezwa abantu bashakwa kugira ngo baburanire mu kindi gihugu, rikorwa ku byaha biteganywa mu ngingo ya 2 igice cya mbere n'iya 4 z'iri tegeko cyangwa ku mpamvu zo gushyira mu bikorwa igihano kijyanye n'icyo cyaha.

Uburyo n'amahame biteganywa n'amasezerano ariho yo kohererezanya abakurikiranyweho ibyaha hagati y'ighugu cyabisabye n'u Rwanda birakurikizwa.

Iyo nta masezerano yo kohererezanya abakurikiranyweho ibyaha ahari, iyoherewa ryabo rikorwa hakurikijwe uburyo n'iyubahirizwa ry'amahame asobanurwa n'amasezerano rusange yo kohererezanya abakurikiranyweho ibyaha yemejwe n'Inteko Rusange y'Umuryango w'Abibumbye mu mwanzuro wayo 45/116. Icyakora, ingingo z'iri tegeko ni zo shingiro ry'uburyo bwo kohererezanya abakurikiranyweho icyaha.

refuse execution of the request only for one of the reasons enumerated in Article 30 of this Law.

Article 34: Fate of confiscated property

The Rwandan State shall have the powers to dispose of seized property on its territory upon request of foreign authorities, unless an agreement concluded with the requesting State provides otherwise.

Article 35: Requests for extradition

The requests for extradition of persons sought for purposes of procedure in a foreign State shall be carried out for the offences envisaged under Articles 2, 1° and 4 of this Law or for purposes to enforce a sentence related to such an offence.

The procedures and the principles provided for in the treaty of extradition in force between the requesting State and the Republic of Rwanda shall be applied.

In the absence of a treaty of extradition or legislative provisions, the extradition shall be carried out according to the procedure and respecting the principles defined by the standard treaty of extradition adopted by the General Assembly of the United Nations in its Resolution 45/116. However, the provisions of this Law shall form a legal basis for the procedure of extradition.

refuser de faire droit à la demande que pour l'un des motifs énumérés à l'article 30 de la présente loi.

Article 34: Sort des biens confisqués

L'Etat Rwandais jouit du pouvoir de disposition sur les biens confisqués sur son territoire à la demande d'autorités étrangères, à moins qu'un accord conclu avec l'Etat requérant n'en décide autrement.

Article 35: Demande d'extradition

Les demandes d'extradition des personnes recherchées aux fins de poursuite dans un Etat étranger sont ouvertes pour les infractions prévues aux articles 2, 1° et 4 de la présente loi ou aux fins de l'exécution d'une peine relative à une telle infraction.

Les procédures et les principes prévus par le traité d'extradition en vigueur entre l'Etat requérant et la République du Rwanda sont applicables.

En l'absence de traité d'extradition ou de dispositions législatives en la matière, l'extradition est exécutée selon la procédure et dans le respect des principes définis par le traité type d'extradition adopté par l'Assemblée Générale des Nations Unies dans sa résolution 45/116. Toutefois, les dispositions de la présente loi, formeront la base juridique pour les procédures d'extradition.

Ingingo ya 36:
n'ibihugu byombi

Hakurikijwe ibyo iri tegeko riteganya, kohererezanya abakurikiranyweho ibyaha bikorwa gusa igithe icyaha gituma habaho iryu yoherezanya cyangwa ikindi cyaha gisa na cyo giteganywa mu mategeko ya Leta isaba no mu mategeko ya Repubulika y'u Rwanda.

Ingingo ya 37: Impamu zitegetswe zo kwanga guhererekanya abanyabyaha

Gusaba kohereza ukurikiranyweho icyaha mu kindi gihugu ntibyemerwa iyo.

1° hari impamu zikomeye zituma hakekwa ko azakurikiranwa cyangwa agahanwa kubera ubwoko bwe, idini rye, ubwenegihugu bwe, inkomoko ye, ibitekerezo bya politiki bye, igitsina cye cyangwa imimerere ye, cyangwa se ko ashobora kugirirwa nabi kubera imwe muri izo mpamu;

2° hari urubanza rwaciwe burundu muri Repubulika y'u Rwanda ku byerekeranye n'icyaha iyoherezwa ry'ukurikiranyweho icyaha risabirwa;

3° umuntu ikindi gihugu gisaba atagishobora gukurikiranwa cyangwa guhanwa kubera amategeko ya kimwe muri ibyo bihugu atabyemera kubera igithe gishize, imbabazi

Article 36: Dual incrimination

Under the terms of this Law, the extradition shall be carried out only when the offence giving rise to extradition or a similar offence is envisaged both in the legislation of the requesting State and Republic of Rwanda.

Article 37: Compulsory grounds for refusing extradition

Requested extradition of the accused shall not be granted if:

1° there are serious reasons to believe that the request for extradition was presented with a view to suing or punishing a person due to his/her race, religion, nationality, ethnic origins, political opinions, sex or status, or that this situation may endanger him/her for any of the above reasons;

2° a final judgement was pronounced in the Republic of Rwanda for the offence in respect of which the extradition is being sought;

3° the person whose extradition is being sought can no longer, due to the legislation of one or the other of these countries, be sued or punished due to the elapsed time or

Article 36: Double incrimination

Aux termes de la présente loi, l'extradition n'est exécutée que quand l'infraction donnant lieu à extradition ou une infraction similaire est prévue à la fois dans la législation de l'Etat requérant et de la République du Rwanda.

Article 37: Motifs obligatoires de refus d'extradition

La demande d'extradition d'un prévenu ne peut pas être acceptée si :

1° il existe de sérieux motifs de croire qu'extradition a été demandée en vue de poursuivre ou de punir une personne en raison de sa race, de sa religion, de sa nationalité, de son origine ethnique, de ses opinions politiques, de son sexe ou de son statut, ou qu'il pourrait en résulter une atteinte à cette personne pour l'un de ces motifs;

2° un jugement coulé en force de chose jugée a été prononcé en République du Rwanda à raison de l'infraction pour laquelle l'extradition est demandée ;

3° la personne dont l'extradition est demandée ne peut plus, en vertu de la législation de l'un ou l'autre des pays, être poursuivi ou puni, en raison du temps

cyangwa izindi mpamvu;	an amnesty or any other reason;	qui s'est écoulé ou d'une amnistie ou de toute autre raison ;
4° usabwa koherezwa yakorewe cyangwa yakorerwa, mu gihugu gisaba, iyica rubozo cyangwa ibindi bikorwa bya kinyamaswa bimutesha agaciro;	4° the person whose extradition is being sought has been or would be subjected to torture and other cruel, inhuman and degrading treatments;	4° la personne dont l'extradition est demandée a été ou serait soumis dans l'Etat requérant à des tortures et autres peines ou traitements cruels, inhumains ou dégradants ;
5° usabwa koherezwa atahawe cyangwa adashobora guhabwa, mu gihugu gisaba uburenganzira bw'ibanze buteganiwe mu miburanishirize y'imanza z'inshinjabyaha nk'uko biteganywa mu ngingo ya 14 y'amasezerano mpuzamahanga yerekanye n'amategeko mbonezamubano na politiki;	5° the person whose extradition is being sought has not received or would not receive the minimum guarantees in criminal proceedings as contained in Article 14 of the International Convention on Civil and Political Rights;	5° la personne dont l'extradition est demandée n'a pas bénéficié ou pourrait ne pas bénéficier de garanties minimales prévues lors des procédures pénales, par l'article 14 du Pacte international relatif aux droits civils et politiques.
Ntabwo igihugu gishobora kwanga kohereza umuntu ukurikiranyweho icyaha mu kindi gihugu kubera impamvu zirebana n'ibibazo by'imisoro.	The extradition may not be refused for the simple reason that the offence is considered as relating to fiscal issues.	L'extradition ne peut être refusée au seul motif que l'infraction est considérée comme portant sur des questions fiscales.
Uko byagenda kose, nta na rimwe iyohereza ry'ukurikiranyweho icyaha w'umunyarwanda rishobora kwemerwa.	In any case, extradition of a Rwandan citizen shall not be granted.	En tout état de cause, l'extradition d'un citoyen rwandais ne peut être accordée.
<u>Ingingo ya 38: Impamvu zidategetswe zo kwanga ihererekenya</u>	<u>Article 38: Optional grounds for refusing extradition</u>	<u>Article 38: Motifs facultatifs de refus d'extradition</u>
Iyoherezwa ry'ukurikiranyweho icyaha rishobora kwangwa iyo:	Extradition may be refused if :	L'extradition peut être refusée si :
1° abayobozi ba Repubulika y'u Rwanda babifitiye ububasha bemeje kudakurikirana umuntu uregwu icyaha runaka gisabirwa iyoherezwa cyangwa kureka gukurikirana uwo	1° the competent authorities of the Republic of Rwanda have decided not to proceed with charges against the person concerned for the particular offence for which the extradition is	1° les autorités compétentes de la République du Rwanda ont décidé de ne pas engager de poursuites contre l'intéressé à raison de l'infraction pour laquelle l'extradition est

muntu;

requested or to put an end to the proceedings instituted against the aforementioned person;

2° ikurikiranacyaha rirebana n'icyaha cyatumye hasabwa iyoherezwa rigikomeza mu Rwanda;

3° icyaha gisabirwa iyoherezwa cyakorewe hanze y'ubutaka bw'ibihugu byombi kandi, hakurikijwe amategeko ya Repubulika y'u Rwanda, inkiko z'u Rwanda zidafitiye ububasha ku byerekeranye n'ibyaha byakorewe hanze y'ubutaka bw'u Rwanda, harebwe impamvu;

4° usabwa koherezwa yaburanishijwe, cyangwa hari impungenge ko ashobora kuburanishwa cyangwa agakatirwa n'urukiko rudasanzwe rwa Leta ibisaba;

5° Repubulika y'u Rwanda, mu gihe yiga imiterere y'icyaha n'inyungu z'igihugu gisaba, ibona ko, bitewe n'impamvu z'ikibazo, iyoherezwa ry'ukurikiranyweho icyaha ryaba ritajyanye n'imyumvire ya kimuntu, bitewe n'imyaka ye, ubuzima bwe cyangwa izindi mpamvu bwite z'uko muntu;

6° icyaha gisabirwa iyoherezwa ry'ukurikiranyweho icyaha gifatwa, mu mategeko ya Repubulika y'u Rwanda, nk'aho cyose cyangwa igice cyacyo cyakorewe ku butaka bwayo;

2° proceedings for the offence related to the requested extradition are pending in the Republic of Rwanda;

3° the offence for which the extradition is requested has been committed outside the territory of either country and for which, according to the legislation of the Republic of Rwanda, the Rwandan jurisdictions are not competent with regard to the offences committed outside its territory in comparable circumstances;

4° the person whose extradition is requested has been judged or risked to be judged or convicted in the requesting State by a special Court;

5° the Republic of Rwanda, while taking into account the nature of the offence and the interests of the requesting State, considers that, given the circumstances of the matter, the extradition of the concerned person would be incompatible with humanitarian considerations, taking into account the age, the state of health or other personal circumstances of the aforesaid person;

6° the offence for which the extradition is requested is considered by the legislation of the Republic of Rwanda as committed in all or partly on its territory;

2° des poursuites à raison de l'infraction pour laquelle l'extradition est demandée sont en cours en République du Rwanda;

3° l'infraction pour laquelle l'extradition est demandée a été commise hors du territoire de l'un ou de l'autre pays et que, selon la législation de la République du Rwanda, les juridictions rwandaises ne sont pas compétentes en ce qui concerne les infractions commises hors de son territoire dans des circonstances comparables;

4° la personne dont l'extradition est demandée a été jugée ou risquerait d'être jugée ou condamnée dans l'Etat requérant par une juridiction d'exception;

5° la République du Rwanda, tout en prenant en considération la nature de l'infraction et les intérêts de l'Etat requérant, considère qu'étant donné les circonstances de l'affaire, l'extradition de la personne en question serait incompatible avec des considérations humanitaires, compte tenu de l'âge, de l'état de santé ou d'autres circonstances personnelles de ladite personne ;

6° l'infraction pour laquelle l'extradition est demandée, est considérée par la législation de la République du Rwanda comme ayant été commise en tout ou en partie sur son

7° hasabwe iyoherezwa ry'ukurikiranyweho icyaha kugira ngo hashyirwe mu bikorwa urubanza rwaciwe burundu umuntu adahari, atarashoboye kwiregura kubera impamvu zitamuturutseho.

Ingingo ya 39: Koherezwa cyangwa gucirwa urubanza

Mu gihe Repubulika y'u Rwanda yanze iyoherezwa ry'ukurikiranyweho icyaha ku mpamvu ziteganywa n'ingingo ya 37 agice ka 3° n'aka 4° tw'igika cya mbere n'iya 38 z'iri tegeko, ishyikiriza ikirego urukiko rubifitiye ububasha kugira ngo uwo muntu akurikiranwe.

Ingingo ya 40: Isubiza ry'umutungo

Bitabangamiye ibiteganywa n'amategeko ya Repubulika y'u Rwanda n'uburenganzira bw'abandi bantu, umutungo wose ugaragara ku butaka bwa Repubulika y'u Rwanda ukomotse ku cyaha cyakozwe cyangwa ushobora kwakwaho ibimenyetso, usubizwa Leta isaba, iyo iwusabye kandi iyo iyoherezwa ry'ukurikiranyweho icyaha ryemewe.

Bisabwe na Leta isaba, umutungo uvugwa mu gika cya 1 cy'iyi ningo ishobora gusubizwa iyo Leta n'ubwo iyoherezwa ry'ukurikiranyweho cyaha ritashobora gushyirwa mu bikorwa,

Igihe cyose uwo mutungo ushobora gufatirirwa

7° the extradition is requested in execution of a final judgment issued in the absence of the person concerned, who has not been able to ensure his/her defense for reasons beyond his/her will.

Article 39: Aut dedere aut judicare

When the Republic of Rwanda refuses the extradition for a reason mentioned in Article 37, paragraphs 3° and 4° of Paragraph One and in Article 38 of this Law, it shall refer the matter to the competent Court so that the person concerned can be prosecuted.

Article 40: Return of assets

Without prejudice to the legislation of the Republic of Rwanda and the rights of third parties, all assets found on the territory of the Republic of Rwanda acquired as a result of the offence committed or that may be required as elements of evidence shall be returned to the requesting State, upon request of the requesting State and if the extradition is granted.

Upon request of the requesting State, the assets set forth in paragraph One eo this Article may be returned to this State even if the granted extradition cannot be carried out.

Whenever the aforementioned assets shall be

territoire ;

7° l'extradition est demandée en exécution d'un jugement définitif qui a été rendu en l'absence de l'intéressé, lequel n'a pas été en mesure d'assurer sa défense pour des raisons indépendantes de sa volonté.

Article 39: Aut dedere aut judicare

Si la République du Rwanda refuse l'extradition pour les motifs visés à l'article 37, alinéa 1, points 3° et 4° et à l'article 38 de la présente loi, elle soumet l'affaire à la juridiction compétente en vue des poursuites contre l'intéressé.

Article 40: Remise des biens

Sans préjudice de la législation de la République du Rwanda et des droits des tiers, tous les biens trouvés sur le territoire de la République du Rwanda dont l'acquisition est le résultat d'une infraction commise ou qui peuvent être requis comme éléments de preuve seront remis à l'Etat requérant, si celui-ci le demande et si l'extradition est accordée.

Les biens mentionés l'alinéa 1 du présent article peuvent, si l'Etat requérant le demande, être remis à celui-ci même si l'extradition accordée ne peut pas être réalisée.

Lorsque lesdits biens sont susceptibles de saisie

cyangwa kunyagirwa ku butaka bwa Repubulika y'u Rwanda, Leta ishobora kuwugumana by'agateganyo cyangwa ikawusubiza.

Bisabwe na Repubulika y'u Rwanda, igihe cyose amategeko abiteganya kandi hubahirije uburenganzira bw'abandi bantu, umutungo wasubijwe ugarurwa mu Rwanda ku buntu, iyo ikurikirana cyaha ryarangiye.

UMUTWE WA V: INGINGO RUSANGE ZEREKERANYE NO GUSABA UBUFATANYE N'IYOHHEREZWA RY'ABAKURIKIRANYWEHO IBYAHA

Iningo ya 41: Kohereza isaba

Isaba rikozwe n'ubuyobozi bwo mu kindi gihugu bubifitiye ububasha ku mpamvu zo kugaragaza ibikorwa by'icyaha cy'iyezandonke, cyangwa byo gutera inkunga iterabwoba, ku mpamvu zo gushyira mu bikorwa cyangwa gufata ibyemezo bishingana by'agateganyo, ibyemezo by'ubunyage cyangwa ku mpamvu z'iyoherewa ry'abakurikiranyweho ibyaha, rinyuzwa mu nzego z'ubutwererane. Mu gihe byihutirwa, isaba rishobora kunyuzwa muri INTERPOL, cyangwa mu buryo butaziguye, ubuyobozi bwo mu bindi bihugu bukaryohereza inzego z'ubutabera za Repubulika y'u Rwanda, binyujijwe mu iposita cyangwa indi nzira iyo ari yo yose yihuta, isiga ikimenyetso cyanditse cyangwa ikindi kintu gihwanyije agaciro na cyo. Icyo gihe,

susceptible of seizure or dispossession on the territory of the Republic of Rwanda, the State shall be able to maintain temporarily or return them.

Upon request by the Republic of Rwanda and at any time the legislation of the Republic of Rwanda so provides, and in respect of the rights of third parties, the returned assets shall be brought back to the Republic of Rwanda free of charge, if prosecution is finalised.

CHAPTER V: GENERAL PROVISIONS CONCERNING THE REQUESTS FOR MUTUAL ASSISTANCE AND EXTRADITION

Article 41: Transmission of request

Requests addressed by foreign competent authorities for purposes of establishing the perpetration of money laundering or financing of terrorism, for purposes to carry out or pronounce protective orders or a seizure or for purposes of extradition shall be transmitted through diplomatic channels. In urgent cases, they may be communicated through INTERPOL or directly by the foreign authorities to the judicial authorities of the Republic of Rwanda, either by mail, or by any other faster means of transmission, leaving a hard copy or equivalent material. In such cases, unless confirmation is given through diplomatic channels, requests shall not be followed up.

ou de confiscation sur le territoire de la République du Rwanda, l'Etat peut les garder temporairement ou les remettre.

Sur demande de la République du Rwanda, les biens ainsi remis sont retournés sans frais à la République du Rwanda à la clôture de la procédure, si la législation de la République du Rwanda le prévoit ainsi et dans le respect des droits des tiers.

CHAPITRE V : DISPOSITIONS COMMUNES AUX DEMANDES D'ASSISTANCE MUTUELLE ET D'EXTRADITION

Article 41: Transmission de la demande

Les demandes formulées par des autorités compétentes étrangères aux fins d'établir des faits constitutifs de blanchiment de capitaux ou de financement du terrorisme, en vue d'exécuter ou de prononcer des mesures conservatoires ou une confiscation ou aux fins d'extradition sont transmises par la voie diplomatique. En cas d'urgence, elles peuvent faire l'objet d'une communication par INTERPOL ou de communications directes par les autorités étrangères aux autorités judiciaires de la République du Rwanda, soit par la poste, soit par tout autre moyen de transmission plus rapide, laissant une trace écrite ou matériellement équivalente. En pareil cas, faute

iyu hatabayeho gushimangira isaba binyuze mu nzego z'ubutwererane, isaba ntirikurikiranwa.

Inyandiko zisaba n'imigerekwa yazo, biherekezwa n'inyandiko zihinduwe muri rumwe mu ndimi zikoreshwa mu butegetsi muri Repubulika y'u Rwanda.

Ingingo ya 42: Ibikubiye mu nyandiko zisaba

Isaba rigomba kugaragaza neza:

- 1° ubuyobozi busaba icyo cyemezo;
- 2° ubuyobozi busabwa;
- 3° igisabwa n'ibindi byose byashingirwaho mu kugaragaza urwego kirimo;
- 4° ibimenyetso bisobanura igisabwa;
- 5° ibantu byose bizwi byafasha kumenya umwirondoro w'abantu bireba by'umwihariko irangamimerere, ubwenegihugu, aho babarizwa n'icyo bakora;
- 6° amakuru yose y'ingenzi yafasha kumenya no kuranga aho umuntu aba, ibikoresho cyangwa imitungo bireba;
- 7° inyandiko y'ingingo y'amategeko agaragaza icyaha, cyangwa iyo bikenewe, inyandiko ikubiyemo amategeko yerekerye n'icyo cyaha, no kwerekana ibihano byahanishijwe icyo cyaha;

The requests and their annexes shall be accompanied by a translation in one of the official languages of the Republic of Rwanda.

Article 42: Contents of requests

The requests shall specify:

- 1° the authority requesting for the measure;
- 2° the requested authority;
- 3° the subject of the request and any relevant remark on its context;
- 4° the facts justifying the request;
- 5° all known elements likely to facilitate the identification of the persons concerned and in particular the civil status, the nationality, the address and the profession;
- 6° all necessary information to identify and locate the person, instruments, resources or property concerned;
- 7° the text of the legal provision instituting the offence or, if needed, a report of the law applicable to the offence, and the indication of the sentence incurred for the offence;

de confirmation donnée par la voie diplomatique, des demandes n'ont pas de suite utile.

Les demandes et leurs annexes doivent être accompagnées d'une traduction dans une des langues officielles de la République du Rwanda.

Article 42: Contenu des demandes

Les demandes doivent préciser:

- 1° l'autorité qui sollicite la mesure;
- 2° l'autorité requise;
- 3° l'objet de la demande et toute remarque pertinente sur son contexte;
- 4° les faits justifiant la demande;
- 5° tous éléments connus susceptibles de faciliter l'identification des personnes concernées et notamment l'état civil, la nationalité, l'adresse et la profession;
- 6° tous renseignements nécessaires pour identifier et localiser la personne, les objets, les ressources ou les biens visés;
- 7° les références légales de l'infraction ou, le cas échéant, un exposé du droit applicable à l'infraction, et l'indication de la peine encourue pour l'infraction;

8° inyandiko isobanura ubufatanye busabwa n'ibisobanuro birambuye by'uburyo igihugu gisaba cyifusa ko bukoreshwa.

Mu bihe bimwe na bimwe byihariye, isaba riba rikubiyemo kandi ibi bikurikira :

1° ibisobanuro ku byemezo bishingana by'agateganyo iyo hasabwa ibyo byemezo;

2° rapor y'ibimenyetso bya ngombwa n'ibitekerezo bituma inzego z'ubutabera zifata icyemezo cy'ubunyage hakurikijwe amategeko y'igihugu, iyo hasabwa gufatwa icyo cyemezo.

Isaba rigamije iyubahirizwa ry'icyemezo gishingana by'agateganyo cyangwa ry'icyemezo cy'ubunyage riba ririmo kandi ibikurikira:

1° kopi y'icyemezo ihuje n'iy'umwimerere igaragaza impamvu zacyo, yaba itazigaragaza, ikaba iriho isobanurampavu;

2° inyandiko ihamya ko icyo cyemezo kigomba kurangizwa kandi kidashobora kujuririrwa mu nzira z'ubujurire zisanzwe;

3° kwerekana aho ishyirwa mu bikorwa ry'icyemezo ritarenga byanaba ngombwa hakerekana umubare w'amafaranga

8° a description of the required assistance and the detail of any particular procedure that the requesting State wishes to see applied.

The request shall also contain the following elements in some particular cases:

1° in the case of a request for a protective measure, a description of the protective order requested;

2° in case of a request for a decision for confiscation, a report of the relevant facts and arguments allowing the judicial authorities to pronounce the confiscation, according to the provisions of national law.

In case of a request for enforcement of a decision of a protective measure or of confiscation, the requests shall be further accompanied by:

1° a certified true copy of the decision setting out such grounds and, if it does not state them, an explanatory note of such a decision;

2° a certificate according to which the decision is enforceable and not subject to ordinary means of redress;

3° the indication of the limits within which the decision shall be carried out and, where appropriate, the amount of money to

8° une description de l'assistance requise et les détails de la procédure particulière que l'Etat requérant souhaite voir appliquée.

En outre, les demandes doivent contenir les éléments suivants dans certains cas particuliers :

1° un descriptif de mesures conservatoires en cas de demande de telles mesures ;

2° un exposé des faits et arguments pertinents devant permettre, en vertu du droit interne, aux autorités judiciaires de prononcer la confiscation, en cas de demande d'une décision de confiscation.

La demande d'exécution d'une décision de mesures conservatoires ou de confiscation contient en outre :

1° une copie certifiée conforme à la décision énonçant ses motifs et, si elle ne les énonce pas, elle énonce l'exposé de ses motifs;

2° une attestation selon laquelle la décision est exécutoire et n'est pas susceptible de recours ordinaires;

3° l'indication des limites dans lesquelles la décision doit être exécutée et, le cas échéant, du montant de la somme à

asabwa ku mutungo;

4° iyo byakorwa kandi bishoboka, ibisobanuro byose bijyanye n'uburenganzira abandi bantu bashobora gusaba ko byubahirizwa ku bikoresho, ku mitungo cyangwa ibindi bintu bivugwa.

reclaim for the asset(s);

4° if applicable and if possible, all indications related to the rights that third parties can demand on the instruments, resources, property or other.

4° s'il y a lieu et si possible, toutes les indications relatives aux droits que des tiers peuvent revendiquer sur les instruments, ressources, biens ou autres choses visés.

Iyo hasabwa iyoherezwa ry'ukurikiranyweho icyaha kandi umuntu bireba akaba yarahamwe n'icyaha, isaba rihererezwa n'umwanzuro w'urubanza cyangwa kopi yawo iriho umukono wa noteri cyangwa indi nyandiko yose yemeza ko uwo muntu yahamwe n'icyaha, ikanerekana igihano yahawe, niba umwanzuro w'urubanza ugomba kurangizwa hamwe n'ibihano bitarangijwe.

Iningo ya 43: Isesengura ry'isaba

Minisiteri ifite ubutabera mu nshingano zayo, imaze gusuzuma ko isaba ryemewe, iryoherezera Ubushinjacyaha Bukuru bw'aho iperereza rizakorerwa cyangwa bw'aho usabwa koherezwa abarizwa.

Ubushinjacyaha Bukuru bwiyambaza abakozi ba Leta babifitiye ububasha kugira ngo bakore iperereza kuri iryo saba, bukiyambaza n'Urukiko rubifitiye ububasha ku byerekeye isaba rijyanye n'ibyemezo bishingana by'agateganyo, inyaga n'iyoherezwa ry'abakurikiranyweho ibyaha.

In the case of a request for extradition and if the person concerned was declared guilty of an offence, the request shall be accompanied with the judgment or a certified copy conform to the judgment or any other document proving that the concerned person has been recognized guilty and indicative of the sentence pronounced, the fact that the judgment is enforceable and the extent to which the sentence has not been carried out.

Article 43: Requests processing

The Ministry in charge of justice, after having verified the legitimacy of the request, shall submit it to the National Public Prosecution Authority of the location where the investigations shall be carried out or where the person whose extradition is requested is located.

The National Public Prosecution Authority shall refer to the competent civil servants for the requests for investigation and the competent Court with regard to the requests related to protective orders, confiscations and extradition.

récupérer sur le ou les biens;

En cas de demande d'extradition et si la personne en cause a été reconnue coupable d'une infraction, les demandes sont accompagnées du jugement ou de la copie certifiée conforme du jugement ou de tout autre document établissant la culpabilité de l'intéressé et indiquant la peine prononcée, le fait que le jugement est exécutoire et la mesure dans laquelle la peine n'a pas été exécutée.

Article 43 : Traitement des demandes

Le Ministère ayant la justice dans ses attributions, après vérification de la régularité de la demande, transmet ladite demande à l'Organe National de Poursuite judiciaire du lieu où les investigations doivent être menées ou du lieu où se trouve la personne dont l'extradition est demandée.

L'Organe National de Poursuite Judiciaires saisit les fonctionnaires compétents des demandes d'investigation et la juridiction compétente en ce qui concerne les demandes relatives aux mesures conservatoires, aux confiscations et à l'extradition.

Umucamanza cyangwa umukozi wa Leta woherejwe n'ubuyobozi bwo mu kindi gihugu bubishiinwe, ashobora gukurikirana iyubahirizwa n'ishyirwa mu bikorwa ry'ibyemezo byakozwe n'Umucamanza, Umushinjacyaha umukozi wa Leta ubifitiye ububasha.

Ingingo ya 44: Amakuru y'innyongera

Minisitiri ufile ubutabera mu nshingano ze cyangwa Ubushinjacyaha Bukuru bwashyikirije ikibazo, igihe bagukurikirana, babyibwirije cyangwa babisabwe n'Urukiko rubifitiye ububasha, bashobora gusaba, binyuze mu nzego z'ubutwererane cyangwa ku buryo butaziguye, ubuyobozi bubifitiye ububasha bwo mu kindi gihugu gutanga amakuru y'innyongera ya ngombwa kugira ngo isaba rikorwe neza cyangwa iyubahirizwa ryaryo ryoroshywe.

Ingingo ya 45: Gusaba ko haba ibanga

Igihe hari Igihugu cyifuje ko isaba ryacyo rigirwa ibanga, biremerwa. Iyo bidashoboka, Igihugu cyabisabye kibimenyeshwa mu buryo bwihutirwa.

Ingingo ya 46: Kudakoresha ibimenyetso mu zindi gahunda

Gukoresha ibimenyetso byatanzwe mu iperereza cyangwa mu miburanishirize itandukanye n'iyateganijwe mu isaba ryaturutse mu kindi gihugu

A judge or a civil servant delegated by the competent requesting State can attend the enforcement of the protective measures depending on whether they are executed by a judge, a prosecutor or an authorized civil servant.

Article 44: Additional information

The Ministry in charge of justice or the National Public Prosecution Authority dealing with the case, either on own initiative or upon request of the competent Court, may solicit, through diplomatic channels or directly, the foreign competent authority for purposes to providing all additional information necessary to carry out the request or facilitate its enforcement.

Article 45 : Request for confidentiality

When the requesting State asks that the existence and the contents of its request be kept confidential, this must be done. If it is impossible, the requesting authority shall be informed without delay.

Article 46: Prohibition of using pieces of evidence for other purposes

For investigations or procedures other than those provided for by the foreign State request, the use of the elements of evidence is prohibited and

Un magistrat ou un fonctionnaire délégué par l'autorité compétente de l'Etat requérant peut assister à l'exécution des mesures selon qu'elles sont effectuées par un magistrat, un procureur ou par un fonctionnaire habilité.

Article 44: Compléments d'information

Le Ministère ayant la justice dans ses attributions ou l'Organe National de Poursuite Judiciaire saisi, soit de son initiative, soit à la demande de la juridiction compétente, peut solliciter, par la voie diplomatique ou directement, l'autorité compétente étrangère aux fins de fournir toutes les informations complémentaires nécessaires pour exécuter la demande ou pour en faciliter l'exécution.

Article 45: Demande de confidentialité.

Lorsque l'Etat requérant demande que l'existence et la teneur de sa requête soient tenues confidentielles, il y est fait droit. En cas d'impossibilité, l'Etat requérant en est informé sans délai.

Article 46: Non utilisation des éléments de preuve à d'autres fins

L'utilisation dans des enquêtes ou des procédures autres que celles prévues dans la demande d'un Etat étranger des éléments de

birabujijwe, kubikora byatuma iryo perereza n'yo miburanishirize biba imfabusa, keretse bibanje kwemerwa na Leta y'icyo gihugu.

Ingingo ya 47: Kwishyura imirimo yakozwe

Amafaranga ajyanye n'ishyira mu bikorwa ry'isaba rivugwa muri uyu mutwe, yishyurwa na Leta yabisabye, kerekwa byumvikanyweho ukundi.

UMUTWE WA VI: IBIHANO N'IBINDI BYEMEZO

Ingingo ya 48: Iyezandonke no gutera inkunga iterabwoba

Bitabangamiye ibihano bikomeye biteganywa n'andi mategeko, ahanishwa igifungo kuva ku myaka itanu (5) kugeza ku myaka icumi (10) n'ihazabu kugeza ku nshuro icumi (10) z'umubare w'amafaranga y'iyezandonke, umuntu wahamwe n'icyaha cy'iyezandonke n'uko bafatanyije.

Ahanishwa igifungo kuva ku myaka itanu (5) kugeza ku myaka icumi (10) n'ihazabu ishobora kugeza ku nshuro icumi (10) z'umubare w'amafaranga y'inkunga ye, umuntu wakoze icyaha cyo gutera inkunga iterabwoba.

may lead to nullity of the said investigations and procedures, unless there is a prior consent of the foreign Government.

Article 47: Payment of charges

Costs computed for the execution of the requests under this chapter are borne by the requesting State unless it is agreed otherwise.

CHAPTER VI: PENALTIES AND OTHER MEASURES

Article 48: Money laundering and financing of terrorism

Without prejudice to more severe penalties under other laws, any person who commits the offence of money laundering and his/her accomplice shall be sentenced to an imprisonment from five (5) to ten (10) years and fine up to ten (10) times the amount of the laundered sums.

Any person who commits a crime of terrorist financing shall be sentenced to an imprisonment from five (5) years to ten (10) years and a fine of up to ten (10) times the amount of his/her financial assistance.

preuve que celle-ci contient est interdite sous peine de nullité desdites enquêtes et procédures, sauf consentement préalable de l'Etat étranger.

Article 47: Imputation des frais

Les frais exposés pour exécuter les demandes prévues au présent chapitre sont à la charge de l'Etat requérant à moins qu'il en soit convenu autrement.

CHAPITRE VI: SANCTIONS PENALES ET AUTRES MESURES

Article 48: Blanchiment de capitaux et financement du terrorisme

Sans préjudices des peines plus sévères prévues par d'autres lois, sera puni d'un emprisonnement de cinq (5) à dix (10) ans et d'une amende allant jusqu'à dix (10) fois le montant des sommes blanchies, quiconque aura commis l'infraction de blanchiment de capitaux ainsi que ses complices.

Sera puni d'une peine d'emprisonnement de cinq (5) à dix (10) ans et d'une amende pouvant aller jusqu'à dix (10) fois le montant de son concours financier, quiconque commis l'infraction de financement du terrorisme.

Ingingo ya 49: Ubufatanyacyaha mu iyezandonke cyangwa gutera inkunga iterabwoba

Ahanishwa igifungo kuva ku myaka itanu (5) kugeza ku myaka icumi (10) n'ihazabu ishobora kugeza ku nshuro icumi (10) z'umubare w'amafaranga y'inkunga ye, umuntu wagize uruhare mu ishyirahamwe agamije gukora ibikorwa bivugwa mu ngingo ya 2, agace ka 1° n'ya 4 z'iri tegeko.

Ingingo ya 50: Ibihano biteganyirijwe umuryango

Uhanishwa ihazabu y'amafaranga angana n'inshuro eshanu (5) z'ihazabu iteganywa mu gika cya mbere cy'ingingo ya 48 y'iri tegeko, umuryango wakoze icyaha cy'Iyezandonke cyangwa gutera inkunga iterabwoba ukoreshje abawuhagarariye, bitabujije ko n'abo bawuhagarariye baryozwa icyaha cy'ubufatanyacyaha cyakozwe.

Bitewe n'uburemere bw'ibyakozwe, uwo muryango ushobora guhanishwa kandi :

1° kubuzwa burundu gukora mu buryo butaziguye cyangwa buziguye imirimo yihariye ijjanye n'umwuga ;

2° guhagarikwa mu gihe kitari munsi y'imyaka itanu (5) ;

3° guseswa igihe washinzwe ugamije gukora

Article 49: Complicity in money laundering or terrorism financing

Any person who is involved in an association with an intent to commit practices mentioned in articles 2,1° and 4 of this Law shall be sentenced to an imprisonment of five (5) years to ten (10) years and a fine which may be up to ten (10) times the amount of his/her financial assistance to terrorism.

Article 50: Penalties for legal person

Legal person, on behalf of/for the benefit of which an offence of money laundering or financing of terrorism has been committed by its representatives, shall be fined an amount equal to five (5) times the fines specified in the paragraph One of Article 48 of this Law, without prejudice of the liability of the latter as accomplices in the offence

Legal person, depending on the gravity of the events, shall be sentenced to:

1° definitive prohibition from direct or indirect involvement in specific professional activities;

2° closing for a minimum of five (5) years;

3° dissolution when established to commit the

Article 49 : Complicité ou entente en vue du blanchiment de capitaux ou de financement du terrorisme

Sera puni d'une peine d'emprisonnement de cinq (5) à dix (10) ans et d'une amende pouvant aller jusqu'à dix (10) fois le montant de son concours financier quiconque aura participé à une association ou entente en vue de la commission des faits visés aux articles 2, 1° et 4 de la présente loi.

Article 50 : Sanctions applicables aux personnes morales

La personne morale, pour le compte ou au bénéfice de laquelle une infraction de blanchiment de capitaux ou de financement du terrorisme a été commise par ses représentants, sera punie d'une amende d'un taux égal au quintuple des amendes spécifiées à l'alinéa 1 de l'article 48 de la présente loi, sans préjudice de la condamnation de ces derniers comme complices de l'infraction.

La personne morale sera, selon la gravité des faits, condamnée à :

1° l'interdiction à titre définitif d'exercer directement ou indirectement certaines activités professionnelles;

2° la fermeture pour une durée de cinq (5) ans au moins ;

3° la dissolution lorsqu'elle a été créée

icyaha.

Icyemezo cy'urukiko gitanga igihano gitangazwa mu binyamakuru no mu bundi buryo bwose bukoreshwa mu itangazamakuru.

Ingingo ya 51 : Impamvu nkomezacyaha

Ibihano bivugwa mu ngingo ya 48, iya 49 n'iya 50 z'iri tegeko bishobora kwikuba kabiri :

- 1° igihe icyaha cy'ibanze gihanishwa igihano cy'igifungo kiruta ikivugwa mu ngingo ya 48, iya 49 n'iya 50 z'iri tegeko ;
- 2° igihe icyaha gikozwe mu rwego rw'akazi ;
- 3° igihe icyaha gikozwe mu rwego rw'ubufatanyacyaha bwateguwe;
- 4° igihe habaye isubiracyaha.

Ingingo ya 52: Impamvu nyoroshyacyaha

Bitabangamiye amategeko akurikizwa muri repubulika y'u Rwanda arebana n'impamvu nyoroshyacyaha, ibihano biteganijwe mu ngingo ya 48, iya 49 n'iya 50 z'iri tegeko bishobora kugabanywa iyo uwakoze icyaha atanze amakuru atashoboraga kuboneka ku bundi buryo afasha gukumira cyangwa kugabanya ingaruka z'icyaha, kumenya cyangwa gushyikiriza inkiko abakoze icyaha, kubona ibimenyetso cyangwa gukumira

incriminated acts.

The Court's decision of the sentence shall be published in newspapers and through other means used by the media.

Article 51: Aggravating circumstances

Penalties mentioned in Articles 48, 49 and 50 of this Law can be doubled :

- 1° when the primary offence is punished with a sentence of imprisonment higher than the one in articles 48, 49 and 50 of this Law;
- 2° when the offence is perpetrated in the exercise of a professional activity;
- 3° when the offence is perpetrated within the framework of an organized criminal conspiracy;
- 4° in case of a second offence.

Article 52: Mitigating circumstances

Without prejudice to the existing legislation of the Republic of Rwanda on mitigating circumstances, the penalties spelt out in Articles 48, 49 and 50 of this Law may be reduced when the author of the offence shall provide to the judicial authorities information which they would not have obtained otherwise, which helps them to prevent or limit the effects of the offence, identify or take legal action against other

pour commettre les faits incriminés.

La décision judiciaire de condamnation sera publiée dans la presse écrite et par toute autre voie utilisée par les médias.

Article 51 : Circonstances aggravantes

Les peines prévues aux articles 48, 49 et 50 de la présente loi peuvent être portées au double :

- 1° quand l'infraction d'origine est punie d'une peine privative de liberté d'une durée supérieure à celle prévue aux articles 48, 49 et 50 de la présente loi;
- 2° lorsque l'infraction est perpétrée dans l'exercice d'une activité professionnelle ;
- 3° lorsque l'infraction est perpétrée dans le cadre d'une entente criminelle organisée ;
- 4° en cas de récidive.

Article 52 : Circonstances atténuantes.

Sans préjudice de la législation en vigueur de la République du Rwanda sur le régime des circonstances atténuantes, les peines prévues aux articles 48, 49 et 50 de la présente loi peuvent être réduites lorsque l'auteur de l'infraction fournit aux autorités judiciaires des informations qu'elles n'auraient pas pu obtenir autrement, les aidant à prévenir ou limiter les effets de l'infraction, identifier ou traduire en

ibindi byaha biteganyijwe mu ngingo ya 2, igice cya 1° n'iya 4 z'iri tegeko.

Ingingo ya 53: Ibihano ku bindi byaha

Ahanishwa igifungo cy'emyaka itanu (5) kugeza ku myaka icumi (10) n'ihazabu y'amafaranga y'u Rwanda ibihumbi magana atanu (500.000) kugeza kuri miliyoni eshanu (5.000.000) cyangwa kimwe muri ibyobihano:

1° umuyobozi wese w'imirimo cyangwa umukozi wo mu biro by'abashinzwe gutanga amakuru bavugwa mu ngingo ya 3 z'iri tegeko uzaba yameneye ibanga abandi bantu ku byerekeye ibikorwa **bikemangwa** byagaragarijwe Ishami rishinzwe iperereza ku mari mu rwego rw'imirimo ye;

2° uzaba yangije cyangwa yarigitishije, abizi, inyandiko zibitswe ku buryo buteganywa n'iri tegeko ;

3° uzaba yakoze cyangwa yagerageje gukora, ibikorwa bisabirwa umwirondoro n'iri tegeko, akoresheje umwirondoro utari wo ;

4° uzaba yamenyeshejwe iby'iperereza ku iyezandonke, uzaba yakoresheje uburyo bwose bwo kuburira abantu bakorwaho iperereza ;

offenders, find evidence or prevent that other offences spelt out in Articles 2, 1° and 4 of this Law be committed.

Article 53: Penalties for other offences

The following shall be punished with five (5) to ten (10) years of imprisonment and a fine from five hundred thousand (500,000) to five million (5,000,000) Rwandan francs or any of these penalties:

1° any executive official or clerk of the reporting entities referred to in Article 3 of this Law who, in the exercise of their duties, shall have revealed to third parties the suspicious transaction report made to the Financial Investigation Unit or on their follow up;

2° any person who knowingly has destroyed or withdrawn records or documents whose conservation is envisaged by this Law;

3° any person who has performed or attempted to perform under a false identity the transactions for which the declaration of identity is prescribed by this Law;

4° any person who, having been informed because of their profession, of an investigation for money laundering, shall have informed by all means the persons

justice les autres auteurs de l'infraction, trouver des preuves ou empêcher que d'autres infractions prévues aux articles 2, 1° et 4 de la présente loi soient commises.

Article 53: Peines pour d'autres infractions

Sera puni d'un emprisonnement de cinq (5) à dix (10) ans et d'une amende de cinq cent mille (500.000) à cinq millions (5.000.000) de francs rwandais ou de l'une de ces peines :

1° tout dirigeant ou préposé des entités déclarantes désignés à l'article 3 de la présente loi qui auront révélé aux tiers les déclarations d'opérations suspectes faites à la Cellule de renseignements financiers dans le cadre de l'exécution de leurs activités;

2° quiconque aura sciemment détruit ou soustrait des registres ou documents dont la conservation est prévue par la présente loi ;

3° quiconque aura réalisé ou tenté de réaliser sous une fausse identité les opérations pour lesquelles la déclaration de l'identité est prescrite par la présente loi ;

4° quiconque, ayant eu connaissance en raison de leur profession, d'une enquête pour des faits de blanchiment de capitaux, en aura informé par tous moyens la ou les

subject to the investigation;

5° uzaba yatangarije abacamanza cyangwa abandi bakozi ba Leta babifitiye ububasha inyandiko azi ko zituzuye cyangwa azi ko zirimo amakosa ;

6° uzaba yaciye ku mategeko ajyanye n'ibanga ry'amakuru yakusanyijwe hakurikijwe ingingo z'iri tegeko zirebana no kubuza kuyahishura cyangwa kuyatangaza, uretse iyo habayeho impamvu ziteganywa n'iri tegeko cyangwa n'andi mategeko ;

7° uzaba atatanze raporo z'ibikorwa bikemangwa zivugwa muri iri tegeko, kandi imiterere y'ibyo bikorwa yatuma hakekwa ko amafaranga yaba yaraturutse kuri kimwe mu byaha bifitanye isano n'iyezandonke cyangwa gutera inkunga iterabwoba ;

8° uzaba yatanze cyangwa yakiriye amafaranga y'inoti n'ibiceri afite umubare uri hejuru y'ikigero cyashyizweho n'Ishami rishinzwe iperereza ku mari ;

9° uzaba yishe amategeko ajyanye n'iyohereza ry'amafaranga mu rwego mpuzamahanga.

5° any person who has communicated to judicial authorities or competent civil servants' documents that he/she knew were truncated or erroneous;

6° any person who shall have disregarded the rules related to the secrecy of information collected under the provisions of this Law, related to the prohibition to reveal them or communicate them except in the cases provided for in this Law or for other purposes than those provided for in this Law;

7° any person who shall have not submitted the suspicious transaction report provided for in this Law, notwithstanding the fact that the transaction lead to deduce that the funds could come from one of the offences related to money laundering and to financing of terrorism;

8° any person who shall have carried out or accepted payments in cash for sums superior to the threshold set by the Financial Investigation Unit;

9° any person who shall have violated the legal provisions related to the international transfer of funds.

personnes visées par l'enquête ;

5° quiconque aura communiqué aux autorités judiciaires ou aux fonctionnaires compétents des documents qu'il savait tronqués ou erronés ;

6° quiconque aura méconnu les règles relatives au secret des informations recueillies au titre des dispositions de la présente loi, à l'interdiction de les divulguer ou les communiquer hors les cas prévus par la présente loi ou à de fins autres que celles visées par la présente loi ;

7° quiconque n'aura pas procédé à la déclaration de soupçons prévue par la présente loi, alors que les circonstances de l'opération amenaient à déduire que les fonds pouvaient provenir d'une des infractions liées au blanchiment de capitaux et financement du terrorisme ;

8° quiconque aura effectué ou accepté des règlements en espèces pour des sommes supérieures à un seuil fixé par la Cellule de renseignements financiers ;

9° quiconque aura contrevenu aux dispositions légales relatives aux transferts internationaux de fonds ;

Ingingo ya 54: Kutubahiriza itegeko

Urwego rushinzwe kugenzura cyangwa guhana amakosa y'akazi rushobora, bitewe n'uburangare cyangwa kutubahiriza amahame yo gukumira iyezandonke kandi hakurikijwe ingingo ziteganywa n'amabwiriza agenga umwuga n'imiyoborere, guha ibihano banki, ikindi kigo cy'imari, undi muntu ku gitit cye cyangwa umuryango bivugwa mu ngingo ya 3 y'iri tegeko bituzuza zimwe mu nshingano bisabwa n'iri tegeko.

Article 54: Failure to follow the law

When, as a result of either a serious lack of vigilance or a shortcoming in the organization of the internal procedures of money laundering prevention, a bank, a financial institution or any other physical or legal person referred to in Article 3 of this Law shall have not met one of the obligations assigned to them under this Law, the disciplinary or supervisory authority may impose sanctions according to the conditions provided for by the professional and administrative regulations.

Article 54: Inexécution de la loi

Lorsque, par suite soit d'un grave défaut de vigilance, soit d'une carence dans l'organisation des procédures internes de prévention du blanchiment de capitaux, une banque, un autre établissement financier ou toute autre personne physique ou morale visée à l'article 3 de la présente loi aura manqué à l'une des obligations qui lui sont assignées par la présente loi, l'autorité de discipline ou de contrôle pourra lui infliger des sanctions dans les conditions prévues par les règlements professionnels et administratifs.

Ingingo ya 55 : Icyemezo gishingana by'agateganyo

Perezida w'Urukiko rubifitiye ububasha ashobora, abyibwirije cyangwa abisabwe n'Ubushinjacyaha Bukuru, gushyiraho icyemezo gishingana by'agateganyo, harimo n'ihagarika ry'amafaranga n'iry'ibikorwa bijyanye n'amafaranga uko byaba bimeze kose bishobora gufatirwa cyangwa kunyagwa hakurikijwe ibivugwa muri iri tegeko. Icyemezo gishingana by'agateganyo gishobora gukurwaho bisabwe n'Ubushinjacyaha Bukuru cyangwa ishami rishinzwe ipererezwa ku imari.

Article 55: Protective measure

A President of a competent Court may, automatically or upon request of the National Public Prosecution Authority, order, at the expenses of the State, any protective measures, including the freezing of funds and financial transactions on property, whatever their nature, that can be seized or confiscated under the terms of this Law. The lifting of these measures may be ordered at any time at the request of the National Public Prosecution Authority, or of the Financial Investigation Unit.

Article 55: Mesure conservatoire

Le Président de la juridiction compétente peut, d'office ou sur requête de l'Organe National de Poursuites Judiciaires ordonner, aux frais de l'Etat, toutes mesures conservatoires, y compris le gel des fonds et des opérations financières sur des biens, quelle qu'en soit la nature, susceptibles d'être saisis ou confisqués en vertu de la présente loi. La mainlevée de ces mesures peut être ordonnée à tout moment à la demande de l'Organe National de Poursuites Judiciaires ou de la Cellule de renseignements financiers.

Ingingo ya 56: Ifatira

Ubushinjacyaha Bukuru cyangwa Urukiko rubifitiye ububasha bishobora gufatira amafaranga cyangwa umutungo bikomoka ku byaha biteganywa n'iri

Article 56: Seizure

The National Public Prosecution Authority or competent Court may seize the funds and the property that are related to offences under this

Article 56: Saisie

L'Organe National de Poursuites Judiciaires ou la juridiction compétente peut saisir les fonds et les biens en relation avec les infractions prévues

tegeko. Iyo indonke itagaragara mu mutungo w'uregwa, Ubushinjacyaha Bukuru cyangwa Urukiko rubifitiye ububasha bishobora gufatira undi mutungo w'uregwa kugeza ku gaciro gahwanye n'umubare w'amafaranga ungana na ya ndonke.

Law. If the proceeds of the crime cannot be raised from the properties of the suspects, the National Public Prosecution Authority or the competent Court may seize other assets which are in the property of the suspects up to the amount of the alleged proceeds of the offences.

par la présente loi. Si le produit du crime ne peut pas être retrouvé dans le patrimoine de la personne soupçonnée, l'Organe National de Poursuites Judiciaires ou la juridiction compétente peut saisir d'autres choses qui se trouvent dans le patrimoine de la personne soupçonnée à concurrence du montant du produit supposé de l'infraction.

Ingingo ya 57: Ubunyage

Igihe uregwa yahamwe n'icyaha giteganywa n'iri tegeko hategewa ko habaho kunyaga:

- 1° umutungo ukomoka ku cyaha harimo ibyabyawe n'ubo mutungo n'izindi nyungu zose zawukomotseho hatitawe ku muntu uwutunze keretse nyir'umutungo agaragaje ko yawubonye mu buryo nyabwo;
- 2° umutungo ufitwe mu buryo butaziguye cyangwa buziguye na nyir'uguhamwa n'icyaha cy'iyezandonke, keretse agaragaje inkomoko yawo yemewe n'uburenganzira awufiteho.

Icyemezo cy'ubunyage kigaragaza uwo mutungo n'ibisobanuro bya ngombwa by'uko uteye n'aho uri.

Article 57: Confiscation

In case of a conviction for offences provided for in this Law, the confiscation shall be ordered :

- 1° for property objects of the offence, including revenues and other advantages which were drawn from it, whoever the owner may be, unless their owner establishes that he/she acquired them in good faith;
- 2° for the property belonging, directly or indirectly, to a person convicted of money laundering, to his/her spouse and his/her children, unless they establish their licit origins and their property right.

The decision ordering dispossession shall indicate the concerned assets and the details necessary for their identification and location.

Article 57: Confiscation

En cas de condamnation pour les infractions prévues par la présente loi, il la confiscation est ordonnée sur :

- 1° les biens, objets de l'infraction, y compris les revenus et autres avantages qui en ont été tirés, à quelque personne qu'ils appartiennent, à moins que leur propriétaire n'établisse qu'il les a acquis de bonne foi ;
- 2° les biens appartenant, directement ou indirectement, à une personne condamnée pour fait de blanchiment de capitaux, à son conjoint et à ses enfants, à moins que les intéressés n'en établissent l'origine licite ainsi que leur droit de propriété.

La décision ordonnant une confiscation désigne les biens concernés et donne les précisions nécessaires pour leur identification et localisation.

Ingingo ya 58: Icyemezo cy'ubunyage

Iyo ikirego cyashyikirijwe Urukiko rubifitiye

Article 58: Order of confiscation

The competent Court to which the matter has

Article 58: Ordonnance de confiscation

La juridiction compétente saisie peut rendre une

ububasha, urwo rukiko rushobora gufata icyemezo cy'ubunyage iyo :

1° hagaragajwe ko umutungo wavuzwe haruguru ari indonke y'icyaha.

2° uwakoze icyaha cyabyaye indonke adashobora gukurikiranwa ku mpamvu z'uko atazwi cyangwa z'uko kumukurikirana mu butabera bidashoboka ku mpamvu ziteganywa n'itegeko.

Ingingo ya 59: Ubunyage bw'umutungo w'umutwe w'abagizi ba nabi

Umutungo wose w'umutwe w'abagizi ba nabi ugomba kunyagwa, igihe uwo mutungo ufitanye isano na kimwe mu byaha bivugwa mu ngingo ya 2, agace ka 1° n'ya 4 z'iri tegeko.

Ingingo ya 60: Itakazagaciro ry'ibikorwa

Nta gaciro kiba gifite, igikorwa cyose cyaba kishyuwe cyangwa gitanzwe ku buntu hagati y'abantu bazima cyangwa mu rwego rw'irage, hagamijwe kurengera umutungo uri muri gahunda yo kunyagwa. Iyo amasezerano asheshwe harabayeho kwishyura, ikiguzi gisubizwa umuguzi mu gihe bigaragaye ko habayeho kwishyura koko.

been referred may issue an order of confiscation if:

1° it is proven that the aforementioned assets are the proceeds of an offence;

2° the perpetrator of the offence which generated the proceeds cannot be charged before the Law either because he/she is not known or because it is legally impossible to prosecute him/her.

ordonnance de confiscation si :

1° il est prouvé que lesdits biens constituent le produit d'une infraction ;

2° l'auteur des faits ayant généré le produit ne peut être poursuivi soit parce qu'il est inconnu, soit parce qu'il y a impossibilité légale de le poursuivre.

Article 59: Confiscation of property of a criminal organization

All the properties upon which a criminal grouping, association or organization exercises authority, must be confiscated when these properties are linked with one of the offences under Articles 2, 1° and 4 of this Law.

Article 59: Confiscation des biens d'une association criminelle

Doivent être confisqués tous les biens sur lesquels un groupement, une association ou une organisation criminelle exerce un pouvoir de disposition, lorsque ces biens ont un lien avec l'une des infractions prévues aux articles 2, 1° et 4 de la présente loi.

Article 60: Nullity of certain acts

Any act carried out in return of payment or at no charge inter vivos or causa mortes whose purpose shall be to withdraw assets from confiscation measures under this Law shall be null and void. In case of the annulment of a contract in return of payment, the price is delivered to the purchaser only if it was actually paid.

Article 60: Nullité de certains actes

Est nul tout acte passé à titre onéreux ou gratuit entre vifs ou à cause de mort qui a pour but de soustraire des biens aux mesures de confiscation prévues par la présente loi. En cas d'annulation d'un contrat à titre onéreux, le prix n'est restitué à l'acquéreur que dans la mesure où il a été effectivement versé.

Ingingo ya 61: Iherezo ry'umutungo wanyazwe

Umutungo wanyazwe ushyikirizwa Leta na yo ikaba ishobora kuwugabagabanya mu bigega byashyiriweho kurwanya iyezandonke, iterabwoba, ubugizi bwa nabi mpuzamahanga buteguye cyangwa ubucuruzi bw'ibiyobyabwenge. Uburenganzira bw'abandi bantu kuri uwo mutungo bukomeza kubahirizwa kugeza ku gaciro kabwo igihe babubonye mu nzira zemewe.

Igihe hafashwe icyemezo cy'ubunyage ukurikiranweho icyaha adahari, umutungo wanyazwe ushyikirizwa Leta ukagurishwa binyuze mu nzira zabigenewe. Icyakora, iyo Urukiko rubifitiye ububasha rugize umwere ukurikiranyweho icyaha biturutse ku isubirishamo ry'urubanza ryabaye, rutegeka Leta gusubiza mu gaciro k'amafaranga umutungo wanyazwe.

UMUTWE WA VII: INGINGO ZISOZA**Ingingo ya 62: Ikurwaho ry'ingingo zinyuranyije n'iri tegeko**

Ingingo zose z'amategeko abanziriza iri kandi zinyuranyije na ryo, by'umwihariko ingingo ya 25, iya 26 n'iya 27 z'Itegeko n° 23/2003 ryo ku wa 07/08/2003 rikumira kandi rica burundu ruswa n'ibindi byaha bifitanye isano na yo zivanyweho.

Article 61: Fate of confiscated property

The confiscated resources or assets shall be vested in the State which may allocate them to a Fund designated for combating money laundering, terrorism, transnational organized crime, illicit traffic of drugs and psychotropic substances. They remain burdened on to the amount of their value, of the charge legally made up to the profit of third parties.

In the event of confiscation by default, the confiscated assets are vested to the State and are liquidated according to the relevant procedures. However, if the competent court acquits the prosecuted person following the case review, it orders the restitution of the confiscated assets in monetary terms by the State.

CHAPTER VII: FINAL PROVISIONS**Article 62: Repealing provisions**

All prior legal provisions contrary to this Law are hereby repealed, in particular Articles 25, 26 and 27 of the Law n° 23/2003 of 07/8/2003 aims at prevention, suppression and punishment of corruption and related offences.

Article 61: Sort des biens confisqués

Les ressources ou les biens confisqués sont dévolus à l'Etat qui peut les affecter à un fonds de lutte contre le blanchiment de capitaux, le terrorisme, la criminalité transnationale organisée ou le trafic illicite des stupéfiants et substances psychotropes. Ils demeurent grevés, à concurrence de leur valeur, des droits réels licitement constitués au profit des tiers.

En cas de confiscation prononcée par défaut, les biens confisqués sont dévolus à l'Etat et liquidés suivant les procédures prévues en la matière. Toutefois, si la juridiction compétente acquitte la personne poursuivie après révision, elle ordonne la restitution en valeur par l'Etat des biens confisqués.

CHAPITRE VII : DISPOSITIONS FINALES**Article 62: Disposition abrogatoire**

Toutes les dispositions antérieures contraires à la présente loi sont abrogées, notamment les articles 25, 26 et 27 de la Loi n° 23/2003 du 07/08/2003 relative à la prévention et à la répression de la corruption et des infractions connexes.

Ingingo ya 63: Igihe itegeko ritangira **Article 63: Commencement**

Iri tegeko ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, kuwa **09/09/2008**

Perezida wa Repubulika
KAGAME Paul
(sé)

Minisitiri w'Intebe
MAKUZA Bernard
(sé)

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

Minisitiri w'Ubutabera / Intumwa Nkuru ya Leta

KARUGARAMA Tharcisse
(sé)

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on **09/09/2008**

The President of the Republic
KAGAME Paul
(sé)

The Prime Minister
MAKUZA Bernard
(sé)

Seen and sealed with the Seal of the Republic:

The Minister of Justice/Attorney General

KARUGARAMA Tharcisse
(sé)

Article 63: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le **09/09/2008**

Le Président de la République
KAGAME Paul
(sé)

Le Premier Ministre
MAKUZA Bernard
(sé)

Vu et scellé du Sceau de la République :

Le Ministre de la Justice / Garde des Sceaux

KARUGARAMA Tharcisse
(sé)

ITEGEKO N°45/2008 RYO KUWA 09/09/2008
RYEREKEYE KURWANYA ITERABWOBA

LAW N°45/2008 OF 09/09/2008 ON
COUNTER TERRORISM

LOI N°45/2008 DU 09/09/2008 RELATIVE A LA
LUTTE CONTRE LE TERRORISME

ISHAKIRO

TABLE OF CONTENTS

TABLE DES MATIERES

UMUTWE WA MBERE : INGINGO RUSANGE

CHAPTER ONE: GENERAL PROVISIONS

CHAPITRE PREMIER : DISPOSITIONS GENERALES

Icivicro cya mbere: Ibirebwa n'iri tegeko

Section One : Scope of this Law

Section première : Champ d'application de la présente loi

Ingingo ya mbere : Icyo iri tegeko rigamije

Article One: Purpose of this Law

Article premier : Objet de la présente loi

Icivicro cya 2 : Ibisobanuro by'amagambo

Section 2: Definitions of terms

Section 2 : Définitions des termes

Ingingo ya 2 : Iterabwoba

Article 2: Terrorism

Article 2 : Terrorisme

Ingingo ya 3 : Igikorwa gifatwa nk'iterabwoba

Article 3: An act considered as terrorism

Article 3: Acte qualifié de terroriste

Ingingo ya 4 : Igikorwa, umuntu, umutungo, abaturage n'inzego z'ubutegetsi za Leta

Article 4: Act, person, property, population and State organs.

Article 4 : Acte, personne, biens, population et organes administratifs de l'Etat

Ingingo ya 5 : Kurwanya iterabwoba

Article 5: Counter terrorism

Article 5 : Lutte contre le terrorisme

Ingingo ya 6: Umuntu ugomba kurindwa mu rwego mpuzamahanga

Article 6: Person to be protected at the international level.

Article 6 : Personne devant jouir d'une protection internationale

Ingingo ya 7 : Ukora iterabwoba

Article 7: Terrorist

Article 7: Terroriste

Ingingo ya 8: Amafaranga akoreshwa

Article 8: Currency used

Article 8: Capitaux utilisés

<u>Ingingo ya 9:</u> Ishyirahamwe cyangwa agatsiko k'iterabwoba	<u>Article 9:</u> Organization or a group of terrorists	<u>Article 9:</u> Association ou groupe terroriste
<u>Ingingo ya 10:</u> Ishyirahamwe ryabujije gukora	<u>Article 10:</u> Prohibited organization.	<u>Article 10:</u> Organisation interdite
<u>Ingingo ya 11:</u> Ukuyobora inama y'ishyirahamwe ry'iterabwoba	<u>Article 11:</u> Chairing meetings of terrorist organization	<u>Article 11:</u> Direction d'une réunion d'une organisation terroriste
<u>Ingingo ya 12:</u> Gushishikariza abantu gukora iterabwoba	<u>Article 12:</u> Inciting people to commit terrorism	<u>Article 12:</u> Inciter la population à commettre le terrorisme.
<u>Ingingo ya 13:</u> Inama yerekeye iterabwoba	<u>Article 13:</u> Meeting on terrorism	<u>Article 13:</u> Réunion sur le terrorisme
<u>Ingingo ya 14:</u> Ukwamamaza ishyirahamwe ry'iterabwoba	<u>Article 14:</u> Advertising a terrorist organization	<u>Article 14:</u> Publicité en faveur d'une organisation terroriste.
<u>Ingingo ya 15:</u> Gutera inkunga ibikorwa by'iterabwoba	<u>Article 15:</u> Supporting terrorist acts	<u>Article 15:</u> Financement des actes de terrorisme
<u>Ingingo ya 16:</u> Igikozwe mu bikoresho bihumanya	<u>Article 16:</u> Toxic materials	<u>Article 16:</u> Objet fabriqué en matière toxique
<u>Ingingo ya 17:</u> Iperereza n'abarikora	<u>Article 17:</u> Investigation and investigators	<u>Article 17:</u> Enquête et enquêteurs
<u>UMUTWE WA II:</u> IBIKORWA BY'ITERABWOBA	<u>CHAPTER II:</u> ACTS OF TERRORISM	<u>CHAPITRE II :</u> DES ACTES DE TERRORISME
<u>Icyiciro cya mbere:</u> Umutekano w'ikibuga cy'indege n'indege	<u>Section One:</u> Security of airports and aircrafts	<u>Section première:</u> De la sécurité des aéroports et des aéronefs
<u>Ingingo ya 18:</u> Ukuyobya indege	<u>Article 18:</u> Hijacking aircrafts	<u>Article 18:</u> Détournement d'un aéronef
<u>Ingingo ya 19:</u> Guhungabanya umutekano ku kibuga cy'indege	<u>Article 19:</u> Causing insecurity at the airport	<u>Article 19:</u> Atteinte à la sécurité à l'aéroport
<u>Icyiciro cya 2 :</u> Gufata bugwate	<u>Section 2:</u> Taking hostage	<u>Section 2 :</u> Prise d'otage

<u>Ingingo ya 20 :</u> Gufata bugwate	<u>Article 20:</u> Taking Hostage	<u>Article 20:</u> Prise d'otage
<u>Icyiciro cya 3:</u> Ibyitso n'ubufatanyacyaha	<u>Section 3:</u> Accomplices and complicity	<u>Section 3 :</u> Des complices et de la complicité
<u>Ingingo ya 21:</u> Ibyitso mu bikorwa by'iterabwoba	<u>Article 21:</u> Accomplices in terrorist acts	<u>Article 21 :</u> Complices dans les actes de terrorisme
<u>Ingingo ya 22 :</u> Ubufatanyacyaha mu gikorwa cy'iterabwoba	<u>Article 22:</u> Complicity in terrorism.	<u>Article 22:</u> Complicité dans le terrorisme
<u>Icyiciro cya 4:</u> Gukoresha intwaro za kirimbuzi, iz'ihumanya n'iziturika	<u>Section 4:</u> Use of nuclear, chemical weapons and explosives	<u>Section 4:</u> Utilisation des armes nucléaires, chimiques et des explosifs
<u>Ingingo ya 23:</u> Gukoresha intwaro za kirimbuzi	<u>Article 23:</u> Use of nuclear weapons	<u>Article 23 :</u> Utilisation des armes nucléaires
<u>Ingingo ya 24:</u> Gukoresha intwaro zihumanya n'iziturika	<u>Article 24:</u> Use of chemical weapons and explosives	<u>Article 24 :</u> Utilisation des armes chimiques et des explosifs
<u>Ingingo ya 25:</u> Gutunga ibikoresho n'inyandiko	<u>Article 25:</u> Owning materials and documents	<u>Article 25 :</u> Possession des matières et des écrits
<u>Icyiciro cya 5:</u> Gufasha amashyirahamwe cyangwa agatsiko k'iterabwoba	<u>Section 5:</u> Aiding terrorist organization or a terrorist group	<u>Section 5:</u> De l'assistance aux organisation ou à un groupe de terrorisme
<u>Ingingo ya 26:</u> Igihe gufasha biba icyaha cy'iterabwoba	<u>Article 26:</u> When aiding becomes a terrorist offence	<u>Article 26 :</u> Quand l'assistance devient un acte terroriste.
<u>Ingingo ya 27:</u> Gufasha ishyirahamwe ryabujije gukora	<u>Article 27:</u> Financing a prohibited organization	<u>Article 27:</u> Financement d'une organisation interdite
<u>Icyiciro cya 6:</u> Umutungo wo gutera inkunga ibikorwa by'iterabwoba	<u>Section 6:</u> Property to support acts of terrorism	<u>Section 6:</u> Patrimoine pour le financement des actes de terrorisme
<u>Ingingo ya 28:</u> Umutungo ukomoka ku bikorwa by'iterabwoba	<u>Article 28:</u> Property from acts of terrorism.	<u>Article 28:</u> Patrimoine provenant des actes de terrorisme.

<u>Iningo ya 29:</u> Umutungo w'ishyirahamwe ryabujijwe gukora	<u>Article 29:</u> Property of a prohibited organization	<u>Article 29:</u> Patrimoine d'une organisation interdite
<u>Iningo ya 30:</u> Gutunga no gukoresha umutungo ukomoka ku iterabwoba	<u>Article 30:</u> Owning and using patrimony from terrorism	<u>Article 30:</u> Possession et usage du patrimoine provenant du terrorisme
<u>Iningo ya 31:</u> Guhishira abakora iterabwoba	<u>Article 31:</u> Concealing terrorists	<u>Article 31:</u> Recel de terroristes
<u>Iningo ya 32:</u> Gutanga amakuru ku mafaranga akekwa kuba akomoka ku iterabwoba	<u>Article 32:</u> Disclosing information regarding to money suspected to have resulted from terrorism	<u>Article 32:</u> Donner des informations sur des fonds soupçonnés issus du terrorisme
<u>Iningo ya 33:</u> Gutanga amakuru ku gikorwa cy'iterabwoba	<u>Article 33:</u> Disclosing information of a terrorist act	<u>Article 33:</u> Déclaration d'un acte de terrorisme
<u>Iningo ya 34:</u> Gutanga amakuru	<u>Article 34:</u> Disclosing information	<u>Article 34:</u> Fournir les informations
<u>Iningo ya 35 :</u> Ifatira ry'umutungo	<u>Article 35:</u> Confiscation of property	<u>Article 35 :</u> Confiscation des biens
<u>Icyiciro cya 7:</u> Ifatira ry'amaranga y'abakora iterabwoba	<u>Section 7:</u> Seizure of terrorist funds	<u>Section 7:</u> Saisie des fonds appartenant aux terroristes
<u>Iningo ya 36:</u> Ububasha bw'umukozi ubishinzwe	<u>Article 36:</u> Competence of a competent official	<u>Article 36:</u> Compétence de l'agent habilité
<u>Iningo ya 37 :</u> Igihe icyemezo cy'ifatira kimara	<u>Article 37:</u> Validity of the certificate of the seizure of seizure	<u>Article 37:</u> Duré de validité de l'ordonnance de saisie
<u>Iningo ya 38:</u> Uhamwa n'icyaha hari amafaranga yafatiriwe	<u>Article 38:</u> Convicted person in case of seized funds	<u>Article 38:</u> Personne reconnue coupable en cas de saisie de fonds
<u>Iningo ya 39:</u> Icyemezo kireba amafaranga yafatiriwe	<u>Article 39:</u> Decision on the seized funds	<u>Article 39:</u> Décision sur les fonds saisis
<u>Iningo ya 40:</u> Ifatira n'inyaga ry'undi mutungo	<u>Article 40:</u> Seizure and dispossession of other property	<u>Article 40:</u> Saisie et dépossession d'autres biens

<u>Ingingo ya 41:</u> Ubujurire	<u>Article 41:</u> Appeal	<u>Article 41:</u> Recours
<u>UMUTWE WA III:</u> UBUBASHA BWO KURWANYA ITERABWOB	<u>CHAPTER III:</u> COMPETENCE TO COUNTER TERRORISM	<u>CHAPITRE III:</u> DE LA COMPETENCE DANS LA LUTTE CONTRE LE TERRORISME
<u>Icyiciro cya mbere:</u> Igota ry'ahakekwaho ibikorwa by'iterabwoba	<u>Section One:</u> Cordoning an area suspected of terrorism activities	<u>Section première:</u> Encerclement d'un lieu présumé abriter les opérations de terrorisme
<u>Ingingo ya 42:</u> Igota n'abashinzwe kurikora	<u>Article 42:</u> Cordoning and responsible persons	<u>Article 42:</u> Encerclement et autorité compétente
<u>Ingingo ya 43:</u> Ukurindwa kw'ahagoswe	<u>Article 43:</u> Protection of a cordoned area	<u>Article 43:</u> Protection du lieu encerclé
<u>Icyiciro cya 2:</u> Gufata no gusaka nta rupapuro rwabugenewe	<u>Section 2:</u> Arrest and search without warrant	<u>Section 2:</u> Arrestation et perquisition sans mandat
<u>Ingingo ya 44 :</u> Gufata ukekwaho iterabwoba nta rupapuro rwabugenewe	<u>Article 44:</u> Arresting a terrorist suspect without an arrest warrant	<u>Article 44:</u> Arrestation de la personne soupçonnée d'acte de terrorisme sans mandat d'arrêt
<u>Ingingo ya 45:</u> Gufata no gusaka nta nteguza	<u>Article 45:</u> Impromptu arrest and search	<u>Article 45:</u> Arrestation et perquisition improvisée
<u>Icyiciro cya 3:</u> Icyemezo cyo gufata no gusaka	<u>Section 3:</u> Arrest warrants and search	<u>Section 3:</u> Mandats d'arrêts et perquisition
<u>Ingingo ya 46:</u> Icyemezo cyo gufata no gusaka n'ugitanga	<u>Article 46:</u> Arrest warrant and person to issue it	<u>Article 46:</u> Mandat d'arrêt et autorité compétente
<u>Ingingo ya 47:</u> Igihe icyemezo cyo gufata kimara	<u>Article 47:</u> Validity of the arrest warrant	<u>Article 47:</u> Délai de validité du mandat d'arrêt.
<u>Icyiciro cya 4:</u> Ububasha bwo gufata no gusaka	<u>Section 4:</u> Competence to arrest and search	<u>Section 4:</u> Compétence en matière d'arrestation et de fouille
<u>Ingingo ya 48:</u> Isakwa ry'ibinyabiziga n'abantu babirimo	<u>Article 48:</u> Search of vehicles and passengers on board	<u>Article 48:</u> Fouille de véhicules et fouille de passagers à bord
<u>Ingingo ya 49 :</u> Isakwa ry'abanyamaguru	<u>Article 49:</u> Search of pedestrians	<u>Article 49 :</u> Fouille de piétons

<u>Iningo ya 50 :</u> Igihe cy'imenyekanisha ry'ububasha bwo gufata no gusaka	<u>Article 50:</u> Period for notification of competence to arrest and search	<u>Article 50:</u> Délai de communication de la compétence d'arrestation et de fouille
<u>Iningo ya 51:</u> Kwinjira mu nyubako hakoreshejwe imbaraga	<u>Article 51:</u> Forceful entrance into buildings	<u>Article 51:</u> Entrée par force dans une installation
<u>Iningo ya 52:</u> Kwifashisha impuguke	<u>Article 52:</u> Use of experts	<u>Article 52:</u> Réquisition d'experts
<u>Iningo ya 53:</u> Ibika ry'ibimenyetso bifatiwe mu isakwa	<u>Article 53:</u> Storage of the evidence from a search	<u>Article 53:</u> Conservation des indices résultant de la perquisition
<u>Icyiciro cya 5:</u> Gufata no gufunga	<u>Section 5:</u> Arrest and imprisonment	<u>Section 5:</u> Arrestation et détention
<u>Iningo ya 54 :</u> Ugufatwa k'ukekwa	<u>Article 54:</u> Arrest of the suspect	<u>Article 54:</u> Arrestation du suspect
<u>UMUTWE WA IV:</u> UBUFATANYE MPUZAMAHANGA	<u>CHAPTER IV: INTERNATIONAL COOPERATION</u>	<u>CHAPITRE IV:</u> COOPERATION INTERNATIONALE
<u>Iningo ya 55:</u> Ubufatanye n'izindi Leta	<u>Article 55:</u> Cooperation with other States	<u>Article 55:</u> Coopération avec d'autres Etats
<u>Iningo ya 56:</u> Ibisabirwa ubufatanye	<u>Article 56:</u> Purpose for request of cooperation	<u>Article 56:</u> Motifs de demande de coopération
<u>Iningo ya 57:</u> Kutemera ubufatanye	<u>Article 57:</u> Refusal of cooperation	<u>Article 57 :</u> Refus de coopération
<u>Iningo ya 58:</u> Gusaba gukora iperereza	<u>Article 58:</u> Request for conducting investigations	<u>Article 58:</u> Demande de réalisation d'une enquête
<u>Iningo ya 59:</u> Gusaba ibyemezo bishingana by'agateganyo.	<u>Article 59:</u> Request for provisional protective measures	<u>Article 59:</u> Demande de mesures conservatoires
<u>Iningo ya 60:</u> Gusaba ubunyage	<u>Article 60:</u> Request for dispossession	<u>Article 60:</u> Demande de confiscation
<u>Iningo ya 61:</u> Iherezo ry'umutungo wanyazwe.	<u>Article 61:</u> Destiny of dispossessed property	<u>Article 61 :</u> Sort des biens confisqués
<u>Iningo ya 62:</u> Isaba ryo kohererezanya abakurikiranyweho ibyaha	<u>Article 62:</u> Request for extradition	<u>Article 62:</u> Demande d'extradition

<u>Iningo ya 63:</u> Icyaha cyemeranywaho n'ibihugu byombi	<u>Article 63:</u> Dual incrimination	<u>Article 63:</u> Double incrimination
<u>Iningo ya 64:</u> Impamvu zitegetswe zo kwanga kohererezanya abakurikiranyweho ibyaha	<u>Article 64:</u> Compulsory grounds for refusing extradition	<u>Article 64:</u> Motifs obligatoires de rejet d'extradition
<u>Iningo ya 65:</u> Impamvu zidategetswe zo kwanga ihererekanya	<u>Article 65:</u> Optional grounds for refusing extradition	<u>Article 65:</u> Motifs facultatifs de refus d'extradition
<u>Iningo ya 66:</u> Gukurikirana umuntu wangiwe ihererekanya	<u>Article 66:</u> Aut dedere aut judicare	<u>Article 66:</u> Aut dedere aut judicare
<u>Iningo ya 67:</u> Isubiza ry'umutungo	<u>Article 67:</u> Restitution of property	<u>Article 67:</u> Restitution du patrimoine
<u>UMUTWE WA V:</u> ININGO RUSANGE ZEREKERANYE NO GUSABA UBUFATANYE N'IHEREREKANYA RY'ABANYABYAH	<u>CHAPTER V:</u> GENERAL PROVISIONS RELATING TO REQUEST FOR COOPERATION AND EXTRADITION	<u>CHAPITRE V:</u> DISPOSITIONS GENERALES RELATIVES A LA DEMANDE DE COOPERATION ET A LA PROCEDURE D'EXTRADITION
<u>Iningo ya 68:</u> Kohereza isaba	<u>Article 68:</u> Transmission of request	<u>Article 68:</u> Transmission de la demande
<u>Iningo ya 69:</u> Ibikubiye mu nyandiko zisaba	<u>Article 69:</u> Contents of extradition request forms	<u>Article 69:</u> Contenu des demandes d'extradition
<u>Iningo ya 70:</u> Isesengura ry'isaba	<u>Article 70:</u> Analysis of the extradition request	<u>Article 70:</u> Traitement des demandes.
<u>Iningo ya 71:</u> Amakuru y'inrongera	<u>Article 71:</u> Additional information	<u>Article 71:</u> Compléments d'informations
<u>Iningo ya 72:</u> Gusaba ko haba ibanga	<u>Article 72:</u> Request for confidentiality	<u>Article 72:</u> Demande de confidentialité
<u>Iningo ya 73:</u> Kudakoresha ibimenyetso mu zindi gahunda	<u>Article 73:</u> Prohibition of using pieces of evidences for other purposes	<u>Article 73:</u> Interdiction d'utilisation des éléments de preuve à d'autres fins
<u>Iningo ya 74:</u> Kwishyura imirimo yakozwe	<u>Article 74:</u> Payment for activities performed	<u>Article 74:</u> Remboursement des frais des services rendus

UMUTWE WA VI : IBIHANO

Ingingo ya 75: Uruhare mu bikorwa by'ishyirahamwe rikora iterabwoba

Ingingo ya 76: Ubufatanyacyaha mu gikorwa cy'iterabwoba

Ingingo ya 77: Iterabwoba riyobwe n'agatsiko k'iterabwoba

Ingingo ya 78: Gutanga amabwiriza mu gikorwa cy'icyaha cy'iterabwoba

Ingingo ya 79: Guhisha uwakoze iterabwoba

Ingingo ya 80: Kuba mu ishyirahamwe ry'iterabwoba

Ingingo ya 81: Kuyobya indege

Ingingo ya 82: Guhungabanya umutekano ku kibuga cy'indege

Ingingo ya 83 : Gukoresha ibantu biturika mu ikoraniro binyuranyije n'amategeko

Ingingo ya 84: Gufata bugwate

Ingingo ya 85: Gukoresha iterabwoba ku badipolomate

Ingingo ya 86: Kugaba ibitero ku bantu barinzwe ku rwego mpuzamahanga

CHAPTER VI: PENALTIES

Article 75: Participating in the acts of a terrorism association

Article 76: Complicity in a terrorist act

Article 77: Terrorism under the command of a terrorist group

Article 78: Giving directives in an act of terrorism

Article 79: Harbouring a terrorist

Article 80: Membership in a terrorist organization

Article 81: Hijacking of an aircraft

Article 82: Destabilizing security at the airport

Article 83: Illegal use of explosives in gatherings

Article 84: Taking hostage

Article 85: Terrorism against internationally protected person

Article 86 : Attacking diplomats

CHAPITRE VI : DES PEINES

Article 75: Participation dans des actes d'une association terroriste

Article 76: Complicité dans un acte de terrorisme

Article 77: Terrorisme sur les ordres d'un groupe terroriste

Article 78: Donner des instructions dans un acte terroriste

Article 79 : Recel du terroriste

Article 80 : Etre membre d'une organisation terroriste.

Article 81: Détournement d'un aéronef

Article 82 : Atteinte à la sécurité à l'aéroport

Article 83 : Utilisation illégale des explosifs dans un lieu public

Article 84: Prise d'otage

Article 85: Terrorisme contre une personne jouissant d'une protection internationale

Article 86: Attaques contre les diplomates

<u>Ingingo ya 87:</u> Gusenya inyubako	<u>Article 87:</u> Demolishing buildings	<u>Article 87:</u> Destruction des édifices
<u>Ingingo ya 88:</u> Gukangisha iterabwoba	<u>Article 88:</u> Threatening to commit terrorism	<u>Article 88:</u> Menace de terrorisme
<u>Ingingo ya 89:</u> Kwinjira mu nyubako za Leta, n'iz'abantu barinzwe ku rwego mpuzamahanga hagamijwe iterabwoba	<u>Article 89:</u> Entering State and Diplomats premises for the purpose of committing terrorism	<u>Article 89:</u> Entrée dans des maisons ou édifices de l'Etat et des diplomates en vue du terrorisme
<u>Ingingo ya 90:</u> Gutunga intwaro zihumanya zikoreshwa	<u>Article 90:</u> Possession of weapons and writings indicating how chemical weapons are used	<u>Article 90:</u> Possession d'armes et d'écrits décrivant l'utilisation des armes chimiques
<u>Ingingo ya 91:</u> Gukoresha ibihumanya	<u>Article 91:</u> Use of chemicals	<u>Article 91:</u> Utilisation des produits chimiques
<u>Ingingo ya 92:</u> Gutanga amakuru atariyo ku iterabwoba	<u>Article 92:</u> Providing false information regarding terrorism act	<u>Article 92:</u> Fausse information sur l'acte du terrorisme
<u>Ingingo ya 93:</u> Ubugambanyi n'ibikangisho	<u>Article 93:</u> Conspiracy and threats	<u>Article 93:</u> Complot et menaces
<u>Ingingo ya 94:</u> Ubugambanyi hanze y'igihugu	<u>Article 94:</u> Conspiracy outside the country	<u>Article 94:</u> Complot à l'extérieur du pays.
<u>Ingingo ya 95:</u> Igihano cy'icyaha cy'ubugambanyi no gushishikariza gukora iterabwoba	<u>Article 95:</u> Conspiring and mobilizing.	<u>Article 95:</u> Peine pour complot et sensibilisation au terrorisme.
<u>Ingingo ya 96:</u> Kuyobya amato	<u>Ingingo ya 96:</u> Hijacking ships	<u>Article 96:</u> Détournement des bateaux.
<u>Ingingo ya 97:</u> Kwangiza ubwato	<u>Article 97:</u> Damaging ships	<u>Article 97:</u> Destruction des bateaux.
<u>Ingingo ya 98:</u> Gushishikariza, gufasha no kwakira ibikomoka ku iterabwoba	<u>Article 98:</u> Propagating, financing and receiving property resulting from terrorism	<u>Article 98:</u> Sensibilisation, appui et réception des biens provenant du terrorisme
<u>Ingingo ya 99:</u> Amasezerano yo gufasha mu iterabwoba	<u>Article 99:</u> Agreements facilitating terrorism	<u>Article 99:</u> Contrat de soutien au terrorisme
<u>Ingingo ya 100:</u> Iyezandonke mu bikorwa	<u>Article 100:</u> Money laundering activities in	<u>Article 100:</u> Blanchiment d'argent provenant des

by'iterabwoba	terrorism	activités du terrorisme
<u>Ingingo ya 101:</u> Iterabwoba ku nyungu za politiki	<u>Article 101:</u> Terrorism for political purposes	<u>Article 101:</u> Terrorisme pour des raisons politiques
<u>Ingingo ya 102:</u> Iterabwoba ku nyungu z'idini cyangwa iz'indi ngengabitekerezo	<u>Article 102:</u> Terrorism based on religious interests or other ideologies	<u>Article 102:</u> Terrorisme pour des raisons religieuses ou idéologiques
<u>Ingingo ya 103:</u> Kubangamira itangwa ry'amakuru ku iterabwoba	<u>Article 103:</u> Jeoperdizing the procedure of providing information about terrorism	<u>Article 103:</u> Entrave à la production des informations relatives au terrorisme
<u>UMUTWE WA VII:</u> INGINGO ZISOZA	<u>CHAPTER VII:</u> FINAL PROVISIONS	<u>CHAPITRE VII:</u> DISPOSITIONS FINALES
<u>Ingingo ya 104:</u> Ivanwaho ry'ingingo zinyuranyije n'iri tegeko	<u>Article 104:</u> Abrogating provisions	<u>Article 104:</u> Disposition abrogatoire
<u>Ingingo ya 105:</u> Igihe itegeko ritangira gukurikizwa	<u>Article 105:</u> Commencement	<u>Article 105:</u> Entrée en vigueur

ITEGEKO N°45/2008 RYO KUWA 09/09/2008
RYEREKEYE KURWANYA ITERABWOBA

LAW N°45/2008 OF 09/09/2008 ON
COUNTER TERRORISM

LOI N°45/2008 DU 09/09/2008 RELATIVE A LA
LUTTE CONTRE LE TERRORISME

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République ;

INTEKO ISHINGA AMATEGEKO YEMEJE,
NONE NATWE DUHAMIE, DUTANGAJE
ITEGEKO RITEYE RITYA KANDI
DUTEGETSE KO RYANDIKWA MU IGAZETI
YA LETA YA REPUBLIKA Y'U RWANDA

THE PARLIAMENT HAS ADOPTED, AND WE
SANCTION, PROMULGATE THE
FOLLOWING LAW AND ORDER IT BE
PUBLISHED IN THE OFFICIAL GAZETTE OF
THE REPUBLIC OF RWANDA

LE PARLEMENT A ADOPTÉ ET NOUS
SANCTIONNONS, PROMULGUONS LA LOI
DONT LA TENEUR SUIT ET ORDONNONS
QU'ELLE SOIT PUBLIÉE AU JOURNAL
OFFICIEL DE LA REPUBLIQUE DU RWANDA

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo ku wa 20
Gicurasi 2008;

Umutwe wa Sena, mu nama yawo yo ku wa 25
Werurwe 2008;

Ishingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo ku wa 04 Kamena 2003, nk' uko ryavuguruwe kugeza ubu cyane cyane mu ngingo zaryo iya 10, iya 12, iya 15, iya 25, iya 47, iya 60, iya 62, iya 66, iya 67, iya 88, iya 89, 90, iya 92, iya 93, iya 95, iya 108, iya 118, iya 169, iya 170, iya 173, 190 n'iyi 201;

Ishingiye ku Masezerano Mpuzamahanga yerekeranye

THE PARLIAMENT:

The Chamber of Deputies, in its session of 20 May 2008;

The Senate in its session of 25 March 2008;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in Articles 10, 12, 15, 25, 47, 60, 62, 66, 67, 88, 89, 90, 92, 93, 95, 108, 118, 169, 170, 173, 190 and 201;

Pursuant to the International Convention for the

LE PARLEMENT :

La Chambre des Députés, en sa séance du 20 mai 2008;

Le Sénat, en sa séance du 25 mars 2008;

Vu la Constitution de la République du Rwanda du 04 juin 2003, telle que révisée à ce jour spécialement en ses articles 10, 12, 15, 25, 47, 60, 62, 66, 67, 88, 89, 90, 92, 93, 95, 108, 118, 169, 170, 173, 190 et 201;

Vu la Convention Internationale pour la répression des

no guhana abakora iterabwoba rikoresha ibisatu biturikana ingufu yemejwe n'Inama Rusange y'Umuryango w'Abibumbye ku wa 15/12/1997, nk'uko yemejwe burundu n'Iteka rya Perezida n° 40/01 ryo ku wa 14/04/2002;

Ishingiye ku Masezerano Mpuzamahanga yerekeranye no kurwanya ifatwa ry'ingwate yemejwe n'Inama Rusange y'Umuryango w'Abibumbye ku wa 17/12/1979, nk'uko yemejwe burundu n'Iteka rya Perezida n° 41/01 ryo ku wa 14/04/2002;

Ishingiye ku Masezerano Mpuzamahanga yerekeranye no guhana abatera inkunga abakora iterabwoba, yemejwe n'Inama Rusange y'Umuryango w'Abibumbye ku wa 09/12/1999, nk'uko yemejwe n' Iteka rya Perezida n° 43/01 ryo ku wa 14/04/2002;

Ishingiye ku Masezerano yerekeranye no kurinda ibantu bishobora gukorwamo intwaro za kirimbizi, yashyiriweho umukono i Vienne, ku wa 26/10/1979, nk'uko yemejwe n' Iteka rya Perezida n° 45/01 ryo ku wa 14/04/2002;

Ishingiye ku Masezerano y'Umuryango w'Ubumwe bw'Afurika yerekeye kwirinda no kurwanya Iterabwoba yashyiriweho umukono i Alger, ku wa 13/07/1999, nk'uko yemejwe burundu n'Iteka rya Perezida n° 39/01 ryo ku wa 14/04/2002;

Ishingiye ku Itegeko-teka n° 21/77 ryo ku wa 18/8/1977 rishyiraho igitabo cy'amategeko ahana;

Ishingiye ku Itegeko n° 09/2000 ryo ku wa 16/06/2000 rishyiraho Polisi y'Ighugu kandi rigena

Suppression of Terrorists using high explosives adopted by the United Nations General Assembly Resolution on 15/12/1997 as ratified by Presidential Order n° 40/01 of 14/04/2002;

Pursuant to the International Convention against the Taking of Hostages adopted by the United Nations General Assembly on 17/12/1979 as ratified by Presidential Order n° 41/01 of 14/04/ 2002;

Pursuant to the International Convention for the Suppression of the Financing of terrorism adopted by the United Nations General Assembly on 09/12/1999 as ratified by the Presidential Order n° 43/01 of 14/04/2002;

Pursuant to the Convention on the Physical Protection of Nuclear Materials signed at Vienna on 26/12/ 1979 as ratified by the Presidential Order n° 45/01 of 14/04/2002;

Pursuant to the African Union Convention on the Prevention and Combating of terrorism signed at Algiers on 13/07/1999 as ratified by the Presidential Order n° 39/01 of 14/04/2002;

Pursuant to Decree Law n° 21/77 of 18/8/1977 establishing the Penal Code;

Pursuant to Law n° 09/2000 of 16/06/2000 on the establishment, general organization and jurisdiction

attentats terroristes à l'explosif adoptée par l'Assemblée Générale de l'Organisation des Nations Unies le 15/12/1997, telle que ratifiée par Arrêté Présidentiel n° 40/01 du 14/04/2002;

Vu la Convention Internationale contre la prise d'otages adoptée par l'Assemblée Générale des Nations Unies le 17 décembre 1979, telle que ratifiée par Arrêté Présidentiel n° 41/01 du 14/04/2002 ;

Vu la Convention Internationale pour la répression du financement du terrorisme adoptée par l'Assemblée Générale des Nations Unies le 9 décembre 1999, telle que ratifiée par l'Arrêté Présidentiel n° 43/01 du 14/04/2002 ;

Vu la Convention sur la protection physique des matières nucléaires signée à Vienne, le 26/10/1979, telle que ratifiée par l'Arrêté Présidentiel n° 45/01 du 14/04/2002 ;

Vu la Convention de l'Union Africaine sur la prévention et la lutte contre le terrorisme signée à Alger le 13/07/1999, telle que ratifiée par l'Arrêté Présidentiel n° 39/01 du 14/04/2002 ;

Vu le Décret-loi n° 21/77 du 18/8/1977 instituant le Code Pénal;

Vu la Loi n° 09/2000 du 16/06/2000, portant création, organisation générale et compétence de la Police

imitunganyirize rusange n'ububasha byayo cyane of the National Police; cyane mu ngingo zaryo iya 4 n'iya 14;

Ishingiye ku Itegeko n° 13/2004 ryo ku wa 17/05/2004 ryerekeye imiburanishirize y'imanza z'ishinjabyaha nk'uko ryavuguruwe kandi ryujujwe kugeza ubu;

YEMEJE :

UMUTWE WA MBERE : INGINGO RUSANGE

Icyiciro cya mbere: Ibirebwa n'iri tegeko

Ingingo ya mbere : Icyo iri tegeko rigamije

Iri tegeko rigena ibyerekeye kurwanya iterabwoba

Icyiciro cya 2 : Ibisobanuro by'amagambo

Ingingo ya 2 : Iterabwoba

Muri iri tegeko, ijambo **iterabwoba** bivuga:

1° gukora cyangwa gukangisha gukora ibikorwa bigamije gutuma inzego z'ubutegetsi za Leta zihindura imikorere yazo hakoreshejwe gufata bugwate umuntu umwe cyangwa benshi, kwica, gukomeretsa cyangwa gutera uwoba abaturage hakoreshejwe uburyo ubwo ari bwo bwose bushobora kwica umuntu no kumukomeretsa;

Pursuant to Law n° 13/2004 of 17/05/2004 relating to the Code of criminal procedure as modified and complemented to date;

ADOPTS:

CHAPTER ONE: GENERAL PROVISIONS

Section One : Scope of this Law

Article One: Purpose of this Law

This Law relates to counter terrorism

Section 2: Definitions of terms

Article 2: Terrorism

For the purpose of this Law, the term **terrorism** shall have the following meaning:

1° to commit or threaten to commit acts aimed at leading State organs into changing their functioning through taking hostages of one or more persons, killing, injuring or threatening the population by use of any means that may kill or injure a person;

Nationale, spécialement en ses articles 4 et 14;

Vu la Loi n° 13/2004 du 17/05/2004 portant code de procédure pénale telle que modifiée et complétée à ce jour;

ADOpte :

CHAPITRE PREMIER : DISPOSITIONS GENERALES

Section première : Champ d'application de la présente loi

Article premier : Objet de la présente loi

La présente loi concerne la lutte contre le terrorisme.

Section 2 : Définitions des termes

Article 2 : Terrorisme

Dans la présente loi, le terme **terrorisme** signifie :

1° commettre ou menacer de commettre des actes dans l'objectif de pousser les organes de l'Etat à changer leur fonctionnement par la prise en otage d'une ou de plusieurs personnes, tuer, blesser ou terroriser la population par l'emploi d'un objet quelconque qui peut tuer ou blesser une personne ;

2° gukora cyangwa gukangisha gukora igikorwa giteganijiwe mu gice cya 1° k'iyi ngingo kubera impamvu za politiki, z'idini cyangwa z'ingengabitekerezo iyo ari yo yose.

Ingingo ya 3 : Igikorwa gifatwa nk'iterabwoba

Igikorwa gifatwa nk'iterabwoba bivuga igikorwa gikozwe cyangwa gukangisha kugikora mu nyungu z'umuntu, agatsiko cyangwa ishyirahamwe ry'iterabwoba.

Ingingo ya 4 : Igikorwa, umuntu, umutungo, abaturage n'inzego z'ubutegetsi za Leta

Muri iri tegeko aya amagambo asobanura:

- 1° “**igikorwa**”: igikorwa gikorewe mu Rwanda cyangwa hanze y'u Rwanda gikozwe n'umunyarwanda cyangwa umunyamahanga;
- 2° “**umuntu cyangwa umutungo ukoreshwa mu iterabwoba**”: umuntu uwo ari we wese cyangwa umutungo uwo ari wo wose aho biri hose;
- 3° “**abaturage**”: abaturage n'imitungo yabo mu bihugu bindi bitari u Rwanda gusa ;
- 4° “**inzego z'ubutegetsi za Leta**”: inzego z'ubutegetsi z'u Rwanda cyangwa z'ikindi gihugu.

2° to commit or threaten to commit an act referred to under paragraph 1° of this article on political, religious or any ideological grounds.

Article 3: An act considered as terrorism

An act considered as terrorism shall mean an act committed or a threat to commit an act in the interest of an individual, a group or a terrorist organization.

Article 4: Act, person, property, population and State organs.

For the purpose of this Law, the terms below shall have the following meanings:

- 1° “**act**”: act committed within or outside Rwanda by a Rwandan or a foreigner;
- 2° “**person or property used in terrorism**” : any person or any property wherever they are situated;
- 3° “**population**”: population of other countries other than that of Rwanda and their property;
- 4° “**State organs**”: administrative organs of Rwanda or of any other country.

2° commettre ou menacer de commettre un acte visé au paragraphe 1° de cet article pour des raisons politique, religieuse ou toute cause idéologique.

Article 3: Acte qualifié de terroriste

L'acte qualifié de terroriste signifie un acte commis ou que l'on menace de commettre dans l'intérêt d'un individu, d'un groupe ou d'une organisation terroriste.

Article 4 : Acte, personne, biens, population et organes administratifs de l'Etat

Aux fins de la présente loi ces termes signifient :

- 1° «**un acte**» : acte commis sur le territoire rwandais ou à l'extérieur du Rwanda par un Rwandais ou un étranger;
- 2° «**personne ou biens qui servent à commettre un acte de terrorisme**» : toute personne ou tout bien quel que soit le lieu de situation;
- 3° «**population**» : population d'un pays autre que le Rwanda, y compris leur patrimoine ;
- 4° «**organes de l'Etat**» : organes administratifs du Rwanda ou d'un autre pays.

Iningo ya 5 : Kurwanya iterabwoba

“Kurwanya iterabwoba”: ibikorwa byose bifitanye isano no gukumira, kwirinda cyangwa guhagarika ibikorwa by’iterabwoba, kimwe n’ibikorwa bifitanye isano no gutuma hatangirika
ibantu byinshi biturutse kuri ibyo bikorwa by’iterabwoba.

Iningo ya 6: Umuntu ugomba kurindwa mu rwego mpuzamahanga

“Umuntu ugomba kurindwa mu rwego mpuzamahanga”: umuntu wese ufite ubudahangarwa n’ibindi biteganywa n’amategeko y’Igihugu, amasezerano y’akarere n’amasezerano mpuzamahanga.

Iningo ya 7 : Ukora iterabwoba

“Ukora iterabwoba”: umuntu, agatsiko k’abantu cyangwa ishyirahamwe:

- 1° bakora cyangwa bakangisha gukora ibivugwa mu ningo ya 2 y’iri tegeko;
- 2° bafite cyangwa bagize uruhare mu gukora, gutegura cyangwa gutuma habaho ibikorwa by’iterabwoba haba mbere cyangwa nyuma y’igikorwa, babizi kandi babigambiriye cyangwa batambamiye ishakishwa ry’ibimenyetso.

Article 5: Counter terrorism

“Counter terrorism”: any act related to the curbing, prevention or stopping terrorist acts, as well as acts related to reducing the scale of destruction of property emanating from such acts of terrorism.

Article 6: Person to be protected at the international level

“Person to be protected at the international level”: any person enjoying immunity and other privileges provided for by the law of the concerned state, regional and international conventions.

Article 7: Terrorist

“Terrorist”: person, a group of persons or an organization that:

- 1° commits or attempts to commit acts mentioned in article 2 of this Law;
- 2° participates or has participated in the commission, planning or aiding the commission of an act of terrorism whether before or after the act, knowingly and deliberately or interfered with investigations.

Article 5 : Lutte contre le terrorisme

«Lutte contre le terrorisme» : tous les actes destinés à prévenir, éviter ou arrêter les actes de terrorisme, ainsi que les actions visant à limiter les dégâts causés par ces actes de terrorisme.

Article 6 : Personne devant jouir d'une protection internationale

«Personne devant jouir d'une protection internationale»: toute personne jouissant d'une immunité et de toute autre protection prévue par la législation du pays, les conventions régionales et internationales.

Article 7: Terroriste

«Terroriste» : individu, groupe d’individus ou organisation qui :

- 1° commet ou menace de commettre les actes visés à l’article 2 de la présente loi ;
- 2° participe ou a été impliqué dans l’exécution, la préparation ou qui a aidé d'une manière quelconque à la commission des actes de terrorisme soit avant ou après l’acte, sciemment et intentionnellement, ou qui a constitué un obstacle aux enquêtes.

Iningo ya 8: Amafaranga akoreshwa

Muri iri tegeko “**amafaranga**” ni ibiceri, inote, sheki, urupapuro rw’iposita rwohererejweho amafaranga, sheki zikoreshwa mu ngendo, impapuro zo kubikurizaho n’ibindi bikoresho bikoreshwa nk’amafaranga mu gihugu icyo ari cyo cyose.

Iningo ya 9: Ishyirahamwe cyangwa agatsiko k’iterabwoba

“**Kuba mu ishyirahamwe**”: bivugwa ku muntu uri mu ishyirahamwe cyangwa mu gatsiko bikora iterabwoba cyangwa ku muntu watangiye gukora ibisabwa ngo yinjiremo azi ko ari cyo bigamije.

Iningo ya 10: Ishyirahamwe ryabujijwe gukora

“**Ishyirahamwe ryabujijwe gukora**”: ni ishyirahamwe ryatangajwe na Minisitiri bireba cyangwa undi wese ubifitiye ububasha ko ribujijwe gukora.

Iteka rya Minisitiri ufite umutekano mu nshingano ze rigena uburyo ishyirahamwe rihagarikwa n’uburyo icyemezo cy’iryo hagarikwa kijuririrwa.

Iningo ya 11: Ukuyobora inama y’ishyirahamwe ry’iterabwoba

Umuntu aba akoze icyaha cy’iterabwoba iyo ateguye, ayoboye cyangwa se afashije gutegura cyangwa kuyobora inama azi ko :

Article 8: Currency used

In this Law, “**currency**”: are coins, notes, cheques postal money order, traveler’s cheques, withdrawal cheques and other financial instruments in any country.

Article 9: Organization or a group of terrorists

“**Membership of an organization**”: fact for a person who is in an organization or a group of terrorists or starting to fulfill the requirements for adhering to that organization or group knowing its intentions.

Article 10: Prohibited organization.

“**Prohibited organization**”: organization publicly prohibited from operating by the concerned Minister or any other competent authority.

An Order of the Minister in charge of security shall determine the procedures of suspension of an organization and modalities for the appeal of such a decision.

Article 11: Chairing meetings of terrorist organization

Any person commits an offence when he/she plans, organizes or facilitates in organising or leading a meeting with the knowledge that:

Article 8: Capitaux utilisés

Dans la présente la présente loi, «**capitaux**» signifient les pièces, les billets, le mandat d’arrivée, les chèques de voyage, les chèques de retrait ou tout autre titre ayant fonction de monnaie dans n’importe quel pays.

Article 9: Association ou groupe terroriste

«**Etre membre d’une organisation**»: le fait pour une personne de faire partie d’une organisation ou d’un groupe terroriste ou d’entreprendre les démarches pour y adhérer en connaissance de cause.

Article 10: Organisation interdite

«**Organisation interdite**»: une organisation déclarée par le Ministre concerné ou toute autre autorité compétente comme étant interdite d’exercer ses activités.

Un arrêté du Ministre ayant la sécurité dans ses attributions détermine les modalités de suspension d’une association, ainsi que les modalités de recours contre cette décision.

Article 11: Direction d’une réunion d’une organisation terroriste

Commet une infraction celui qui prépare, dirige ou participe à la préparation ou la direction d’une réunion sachant que :

- 1° ari iyo gutera inkunga ishyirahamwe ryabujijwe gukora;
- 2° ari iyo kugena ibikorwa by' ishyirahamwe ryabujijwe gukora;
- 3° igomba gufatirwamo ijambo n'umuntu uri cyangwa uvugwa ko ari mu ishyirahamwe ryabujijwe gukora.

Iningo ya 12: Gushishikariza abantu gukora iterabwoba

Aba akoze icyaha cy'iterabwoba umuntu ufashe ijambo mu nama y'ishyirahamwe ryabujijwe gukora cyangwa ritegura ibikorwa by'iterabwoba, aba kandi akoze iterabwoba iyo akoresheje uburyo ubwo aribwo bwose bushishikariza ishyirahamwe ryabujijwe gukora iterabwoba cyangwa kugena ibikorwa byaryo.

Iningo ya 13: Inama yerekeye iterabwoba

“**Inama**”: iteraniro ry'abantu babiri cyangwa benshi bahuriye hamwe bategura ibikorwa by'iterabwoba, bashobora kuba mu cyicaro kimwe cyangwa bahujwe n'ibikoresho by'ikoranabuhanga.

Iningo ya 14 : Ukwamamaza ishyirahamwe ry'iterabwoba

Aba akoze icyaha cy'iterabwoba umuntu wese wamamaje umuryango cyangwa abategura ibikorwa cyangwa ishyirahamwe ry'iterabwoba. Aba kandi

- 1° the meeting aims at financing a prohibited organization;
- 2° the meeting aims at determining the activities of a prohibited organization to operate;
- 3° in the meeting, a person who is member or recognized to be a member of the prohibited organization shall take a speech.

Article 12: Inciting people to commit terrorism

Commits an offense of terrorism any person who shall take a speech in the meeting of a prohibited organization or one organizing acts of terrorism or use any means to incite a prohibited organization to commit terrorism or determine its operations.

Article 13: Meeting on terrorism

“**Meeting**”: group of two or more persons gathered together for planning terrorism acts being in the same place or linked by technological system.

Article 14: Advertising a terrorist organization

Commits the offence of terrorism, any person advertising an organization or organizers of acts or terrorist organization. He/she also commits the offence of terrorism when he/she wears, holds or

- 1° elle vise à financer une organisation interdite ;
- 2° elle vise à préparer les activités d'une organisation interdite;
- 3° une personne membre d'une organisation interdite ou prise pour tel y prendra la parole.

Article 12: Inciter la population à commettre le terrorisme.

Commet l'infraction de terrorisme quiconque prend la parole dans une réunion d'une organisation interdite ou se préparant à des actes terroristes, ou, qui, par tous les moyens incite une organisation interdite à commettre les actes terroristes ou à les planifier.

Article 13: Réunion sur le terrorisme

«**Réunion**» : assemblée de deux ou plusieurs personnes ayant pour objectif de planifier les actes de terrorisme et pouvant se trouver dans un même endroit ou être liées par des voies technologiques.

Article 14: Publicité en faveur d'une organisation terroriste.

Commet une infraction de terrorisme quiconque fait la publicité d'une organisation ou de ceux qui préparent des actes de terrorisme ou une organisation terroriste.

akoze icyaha cy'iterabwoba iyo yambaye umwambaro, atwaye cyangwa ashyize ahagaragara umwenda, inyandiko, amashusho, amajwi cyangwa ikindi cyose cyamamaza iterabwoba, mu buryo cyangwa mu gihe bituma haba ugukeka gufite ishingiro ko ari umwe mu bagize umuryango wabujijwe gukora cyangwa awutera inkunga.

Ibivugwa mu gika kibanziririza iki biba icyaha iyo uwabikoze yari azi ko biranga agatsiko cyangwa umuryango wemejwe ko ari uw'iterabwoba.

Ingingo ya 15: Gutera inkunga ibikorwa by'iterabwoba

Umutungo w'umuntu utera inkunga ibikorwa by'iterabwoba bivuga :

- 1° amafaranga cyangwa undi mutungo ukoreshwa mu iterabwoba, harimo n'umutungo w'ishyirahamwe rikora cyangwa ryabujijwe gukora;
- 2° ibyavuye mu gikorwa cy'iterabwoba ;
- 3° ibyavuye mu gikorwa cyakozwe hagamijwe gukora iterabwoba hakurikijwe ibiteganywa n'amasezerano impuzamahanga u Rwanda rwemeje burundi yerekerye no kurwanya igikorwa cy'iterabwoba.

Ingingo ya 16: Igikozwe mu bikoresho bihumanya

Mu bikorwa by'iterabwoba ikintu gikozwe mu bikoresho bihumanya bivuga ikintu gishobora gutera

shows the clothes, documents, visual medium, audio medium or any other medium that propagates terrorism, in a manner or way, which leads to serious presumption that he/she is one of the members of the prohibited organization or finances it.

Acts referred to the preceding paragraph shall be considered as an offence where the person who commits such acts does so knowing that it identifies a group or a terrorist organization.

Article 15: Supporting terrorist acts

A person's property supporting acts of terrorism shall mean:

- 1° funds or any other property used to support terrorism including the property of an organization operating or prohibited from operating;
- 2° outcomes of a terrorist act;
- 3° outcomes of an act carried out with an intention to commit terrorism in accordance with provisions of international conventions Rwanda ratified relating to suppression of terrorism.

Article 16: Toxic materials

Referred to the terrorist acts, any toxic material shall mean any object, which may bring a negative change

Commet également une infraction de terrorisme quiconque porte une uniforme, porte ou exhibe un tissu, un document, un support visuel, un support audio ou tout autre support qui fait la publicité du terrorisme, de manière et de façon à faire présumer valablement qu'il est membre d'une organisation interdite ou qu'il la finance.

Les faits visés à l'alinéa précédent deviennent une infraction lorsque l'auteur était au courant que cela représentait une organisation déclarée terroriste.

Article 15: Financement des actes de terrorisme

Les biens d'une personne qui finance les actes de terrorisme signifient :

- 1° capital investi dans l'acte de terrorisme y compris celui d'une organisation opérationnelle ou dont les actes sont interdits;
- 2° produit de l'acte de terrorisme;
- 3° produit d'acte commis avec intention de commettre le terrorisme dans le sens des dispositions de la convention internationale relative à la lutte contre le terrorisme ratifiée par le Rwanda.

Article 16: Objet fabriqué en matière toxique

Dans le cadre des actes terroristes, un objet fabriqué en matière toxique signifie un objet susceptible de

impinduka mbi ku rusobe rw'ibinyabuzima.

Iningo ya 17: Iperereza n'abarikora

Iperereza ku bakekwaho ibikorwa by'iterabwoba bisobanura iperereza rikozwe na Polisi y'Igihugu, Ingabo z'Igihugu, Urwego rw'Igihugu Rushinzwe Umutekano cyangwa urundi rwego rubifitiye ububasha byaba bikozwe mu bufatanye cyangwa se abagize urwego rumwe ukwabo, hagamijwe kurwanya iterabwoba no gushyikiriza abakekwa ubucamanza.

UMUTWE WA II: IBIKORWA BY'ITERABWOBIA

Icyiciro cya mbere: Umutekano w'ikibuga cy'indege n'indege

Iningo ya 18: Ukuyobya indege

Aba akoze icyaha cy'iterabwoba umuntu wese ukoresheje ingufu agamije gukanga, gufata ubuyobozzi bw'indege cyangwa ukoresheje ubwo buyobozzi bw'indege kugera kuri kimwe mu bikorwa bikurikira:

- 1° kwica cyangwa gukomeretsa uri mu ndege;
- 2° kujyana umuntu uwo ari we wese mu ndege atabishaka ahantu hose hatari aho indege iteganya kujya;
- 3° gufata umuntu uwo ari we wese uri mu ndege ugamije indonke cyangwa kumukoresha

on biodiversity.

Article 17: Investigation and investigators

Investigations on terrorism suspects means investigations carried out by the National Police, Rwanda Defence Force, National Security Service or any other competent organ whether done in collaboration or by each organ respectively, with an aim of fighting against terrorism and indicting the suspects.

CHAPTER II: ACTS OF TERRORISM

Section One: Security of airports and aircrafts

Article 18: Hijacking aircrafts

Commits the offence of terrorism any person using of force, with an intention to intimidate, capture the crew of an aircraft or using the crew of the aircraft with the purpose of achieving one of the following acts:

- 1° killing or injuring a person aboard the aircraft;
- 2° transporting any person aboard the aircraft without his/her consent to a place other than the scheduled destination of aircraft;
- 3° abducting a person in the aircraft for an illicit gain or forced labor;

provoquer un bouleversement dans la biodiversité.

Article 17 : Enquête et enquêteurs

L'enquête sur les suspects d'actes de terrorisme signifie une enquête menée par la Police Nationale, les Forces Rwandaises de Défense, le Service National de Sécurité ou toute autre autorité compétente soit conjointement ou individuellement dans le but de lutter contre le terrorisme et de traduire les suspects en justice.

CHAPITRE II : DES ACTES DE TERRORISME

Section première: De la sécurité des aéroports et des aéronefs

Article 18: Détournement d'un aéronef

Commet l'infraction de terrorisme quiconque use de la force dans l'intention d'intimider, de s'emparer de l'équipage d'un aéronef ou se sert de cette équipage dans le but de commettre l'un des actes suivants :

- 1° tuer ou blesser une personne à bord;
- 2° amener une personne à bord d'un aéronef à emprunter contre son gré la direction d'un endroit quelconque autre que la destination initiale de l'avion;
- 3° se saisir d'une personne se trouvant à bord pour avoir une rançon ou obtenir de lui une

umurimo adashaka ;

4° gutuma indege ihindura inzira yayo;

5° kwangiza indege;

6° guhungabanya umutekano w'abari mu ndege.

4° changing the aircraft's direction;

5° demolishing the aircraft;

6° causing insecurity of all on board the aircraft.

prestation contre son gré ;

4° dévier un aéronef de son itinéraire;

5° endommager l'aéronef ;

6° porter atteinte à la sécurité de personnes se trouvant à bord.

Ingingo ya 19: Guhungabanya umutekano ku kibuga cy'indege

Aba akoze icyaha cy'iterabwoba umuntu wese ukoresha imbaraga cyangwa ukangisha gukoresha imbaraga ku kibuga cy'indege iyo ibyo bikorwa bivuyemo:

1° kwica umuntu cyangwa kumukomeretsa ;

2° gusenya cyangwa kwangiza inyubako z'ikibuga cy'indege;

3° guhagarika imirimo imwe n'imwe ishobora kugira ingaruka mbi ku migendekere myiza y'ikibuga ;

4° guhungabanya umutekano w'ikibuga cy'indege n'inyubako.

Article 19: Causing insecurity at the airport

Commits the offence of terrorism any person using force or threatening to use force at the airport and if such acts of terrorism result into:

1° killing or injuring a person;

2° demolishing or destroying buildings of an airport;

3° stopping certain activities which may have negative consequences on the performance of the airport;

4° Security threats of the airport and its infrastructures.

Commet une infraction de terrorisme quiconque use ou menace d'user de la force à l'aéroport lorsque ces actes de terrorisme provoquent:

1° la mort ou les blessures d'une personne ;

2° la destruction ou détérioration des installations d'un aéroport;

3° l'interruption de certaines des activités susceptibles d'entraver les opérations normales de l'aéroport;

4° l'atteinte à la sécurité de l'aéroport et de ses installations.

Iciciro cya 2 : Gufata bugwate

Ingingo ya 20 : Gufata bugwate

Gufata bugwate ni ugushimuta umuntu, kumuuyana, kumuyobya no kumutwara aho azi cyangwa atazi

Section 2: Taking hostage

Article 20: Taking Hostage

Taking hostage refers to kidnapping, taking, diverting, and directing a person to a known or

Section 2 : Prise d'otage

Article 20: Prise d'otage

La prise d'otage signifie enlever, prendre et détourner une personne en vue de l'amener dans un endroit qui

kugira ngo uwamufashe abone inyungu z'agatsiko k'iterabwoba.

Icyiciro cya 3: Ibyitso n'ubufatanyacyaha

Ingingo ya 21: Ibyitso mu bikorwa by'iterabwoba

Afatwa nk'icyitso umuntu wese ujya cyangwa ugira uruhare mu bikorwa by'agatsiko k'iterabwoba harimo n'ibi bikurikira:

- 1° gutanga, kwakira cyangwa guhitamo umuntu kugira ngo akeshwe imyitoto;
- 2° gutanga cyangwa guha uburyo bwo gutanga ubumenyi cyangwa ubuhanga mu nyungu, cyangwa mu bufatanye n'agatsiko k'iterabwoba;
- 3° kwegeranya, gutanga cyangwa gutuma haboneka, mu buryo butaziguye cyangwa buziguye, umutungo cyangwa se guhamagarira umuntu gutanga, gufasha gutuma haboneka umutungo cyangwa amafaranga cyangwa se indi mirimo ijyanye n'inyungu z'ako gatsiko;
- 4° gukoresha umutungo, mu buryo butaziguye cyangwa buziguye, mu nyungu z'ako gatsiko;
- 5° kugira umutungo ugamije gukoreshwa, mu buryo butaziguye cyangwa buziguye, mu nyungu z'ako gatsiko;
- 6° guhitamo umuntu kugira ngo afashe cyangwa

unknown destination in order for the hijacker to accomplish the interest of a terrorist group.

Section 3: Accomplices and complicity

Article 21: Accomplices in terrorist acts

Any person involved or participating in the following acts of a terrorist group shall be considered to be an accomplice:

- 1° giving, receiving or choosing a person for training;
- 2° giving or facilitating the supply of knowledge or expertise in the interest of or in collaboration with a terrorist group;
- 3° collecting, giving or facilitating the collection of property, directly or indirectly, or sensitizing a person to give, aid or facilitate the collection of property, funds or other activities related to the interest of that group;
- 4° using the property, directly or indirectly, in the interest of that group;
- 5° owning property reserved to be used, directly or indirectly, in the interest of that group;
- 6° choosing a person for aiding in or committing an

lui est connu ou non pour servir les intérêts d'un groupe terroriste.

Section 3 : Des complices et de la complicité

Article 21 : Complices dans les actes de terrorisme

Est considérée comme complice toute personne participant ou impliquée dans les activités d'un groupe terroriste telles que :

- 1° donner, accueillir ou choisir une personne pour lui faire subir des entraînements ;
- 2° donner ou rendre disponibles les moyens de donner les connaissances ou techniques dans l'intérêt ou en collaboration avec un groupe terroriste ;
- 3° collecter, donner ou contribuer à la recherche, de façon directe ou indirecte, des fonds ou sensibiliser une personne à donner, aider ou contribuer à la recherche du patrimoine ou de l'argent ou toute autre activité relative à l'intérêt de ce groupe ;
- 4° utiliser le patrimoine, directement ou indirectement, dans l'intérêt de ce groupe ;
- 5° avoir un patrimoine destiné à être utilisé, directement ou indirectement, dans l'intérêt de ce groupe ;
- 6° recruter une personne pour aider ou réaliser

akore igikorwa cy'iterabwoba;

7° gukora cyangwa kudakora igikorwa hanze y'Igihugu ku buryo iyo bikorerwa mu gihugu, cyari kuba ari igikorwa cy'iterabwoba;

8° kwinjira cyangwa kuguma mu gihugu icyo ari cyo cyose mu nyungu cyangwa mu bufatanye n'agatsiko k'iterabwoba;

9° kwitanga we ubwe, yubahiriza amabwiriza ahawe n'umwe mu bagize agatsiko k'iterabwoba, kugira ngo afashe cyangwa akore igikorwa cy'iterabwoba.

act of terrorism;

7° committing or abstaining from committing an act outside the country to the extent that if it was committed within the country, it would be a terrorist act;

8° entering or remaining in any country in the interest of or in collaboration with a terrorist group;

9° sacrificing oneself, by adhering to the instructions given by one of the members of a terrorist group in order to aid or commit a terrorist act.

un acte de terrorisme ;

7° commettre ou s'abstenir de commettre un acte à l'extérieur du pays de façon que, si l'acte était commis dans le pays aurait été qualifié d'acte de terrorisme ;

8° entrer ou rester dans un pays quelconque dans l'intérêt ou en collaboration avec un groupe terroriste ;

9° se sacrifier en exécutant les instructions de l'un des membres d'un groupe terroriste pour aider ou perpétrer un acte de terrorisme.

Iningo ya 22 : Ubufatanyacyaha mu gikorwa cy'iterabwoba

Afatwa nk'umufatanyacyaha mu gikorwa cy'iterabwoba umuntu wese ugira uruhare mu gikorwa cyose cy'agatsiko k'iterabwoba, harimo n'ibi bikurikira:

1° gukoresha izina, ijambo, ikirango cyangwa ikindi kimenyetso kigaragaza cyangwa gifitanye isano n'agatsiko k'iterabwoba;

2° kuba akunze kuba ari hamwe n'abagize agatsiko k'iterabwoba;

3° kuba hari inyungu avana mu gatsiko k'iterabwoba;

4° kuba agaragara rimwe na rimwe mu bikorwa

Article 22: Complicity in terrorism.

Any person involved or participating in the following acts of a terrorist group shall be considered to be an accomplice:

1° using a name, a word, an emblem or any other symbol related to a terrorist group;

2° being often in the company of the members of a terrorist group;

3° getting benefits from a terrorist group;

4° occasionally appearing in the acts ordered by

Article 22: Complicité dans le terrorisme

Est considérée comme complice dans l'acte de terrorisme toute personne participant ou impliquée dans les activités d'un groupe terroriste telles que:

1° utiliser un nom, un mot, un emblème ou un autre signe invoquant un groupe terroriste ;

2° être souvent en compagnie des membres d'un groupe terroriste ;

3° tirer un avantage quelconque du groupe terroriste ;

4° participer de temps en temps aux activités

ategetswe n'abagize agatsiko k'iterabwoba.

members of a terrorist group.

ordonnées par les membres du groupe terroriste.

Icyiciro cya 4: Gukoresha intwaro za kirimbuzi, iz'ihumanya n'iziturika

Ingingo ya 23: Gukoresha intwaro za kirimbuzi

Aba akoze igikorwa cy'iterabwoba umuntu wese ukoresha, ukangisha, ugerageza kugambana cyangwa ugambana kugira ngo hakoreshwe intwaro za kirimbuzi anyuranyije n'amategeko kandi abigambiriye.

Ingingo ya 24: Gukoresha intwaro zihumanya n'iziturika

Aba akoze igikorwa cy'iterabwoba, abigambiriye kandi agamije kwica, kubabaza umubiri w'undi muntu, kwangiza umutungo cyangwa ibidukikije umuntu wese:

- 1° ushyira ubumara cyangwa ikintu icyo aricyo cyose gihumanya ahantu;
- 2° wohereje ubumara cyangwa ikintu cyose gihumanya kiva ahantu kijya ahandi akoresheje iposita cyangwa ubundi buryo bwose bushoboka;
- 3° wumvisha umuntu aho ariho hose ku isi ko ikintu ari ubumara cyangwa ikintu cyose gihumanya cyangwa se ari intwaro ya kirimbuzi.

Section 4: Use of nuclear, chemical weapons and explosives

Article 23: Use of nuclear weapons

Any person who deliberately, and in contradiction with the law, uses or threatens to use mass destruction weapons, attempts to conspire or one who conspires deliberately in order to use nuclear weapons contrary to laws shall be guilty of the terrorist offence.

Article 24: Use of chemical weapons and explosives

Any person commits a terrorist act, deliberately intends to kill, causes bodily injury to another person, destroys property or environment when he/she:

- 1° puts toxic substances or any toxic thing in a certain place;
- 2° sends toxic substance or any toxic substances from one place to another by use of the postal or any other possible means;
- 3° informs a person anywhere in the world that a substance is toxic or any thing that is poisonous is a nuclear weapon.

Section 4: Utilisation des armes nucléaires, chimiques et des explosifs

Article 23 : Utilisation des armes nucléaires

Commet un acte de terrorisme quiconque fait usage, menace, tente de comploter ou qui, intentionnellement et illicitement, comploté délibérément pour l'utilisation des armes nucléaires contrairement à la loi.

Article 24 : Utilisation des armes chimiques et des explosifs

Commet un acte de terrorisme, intentionnellement et dans l'objectif de causer la mort, faire des lésions corporelles sur autrui, détériorer un patrimoine ou l'environnement toute personne qui:

- 1° pose les substances toxiques ou tout autre objet quelconque toxique dans un endroit ;
- 2° envoie des substances toxiques ou un autre objet toxique d'un lieu à un autre par poste ou par tout autre moyen possible;
- 3° fait comprendre à une personne partout où elle se trouve au monde qu'un objet constitue une substance toxique ou une arme nucléaire.

Iningo ya 25: Gutunga ibikoresho n'inyandiko

Aba akoze igikorwa cy'iterabwoba umuntu wese utunga ibikoresho bishobora gukorwamo intwaro zihumanya, inyandiko z'uburyo izo ntwaro zikorwa n'uburyo zikoreshwa, igikoresho gifasha mu gukora izo ntwaro n'uzikora mu nganda agamije kubabaza umubiri w'undi muntu bikomeye, kwangiza umutungo cyangwa ibidukikije.

Icyiciro cya 5: Gufasha amashyirahamwe cyangwa agatsiko k'iterabwoba**Iningo ya 26: Igihe gufasha biba icyaha cy'iterabwoba**

Umuntu aba afashije mu gikorwa cy' iterabwoba iyo:

- 1° abikoze azi ko ari iterabwoba rigamijwe;
- 2° abikoze azi ko abo ateye inkunga, umuntu, agatsiko cyangwa ishyirahamwe bikora iterabwoba;
- 3° abikoze azi ko uwo atera inkunga yakoze iterabwoba.

Iningo ya 27: Gufasha ishyirahamwe ryabujije gukora

Umuntu aba akoze icyaha cy'iterabwoba iyo ashakira

Article 25: Owning materials and documents

Any person who owns materials in which chemical weapons may be manufactured, documents on the manufacture and use of such weapons, any equipment that is used in their manufacturing in industries with an intention to seriously harm any other person's body, destroying property or environment shall be guilty of a terrorist act.

Section 5: Aiding terrorist organization or a terrorist group**Article 26: When aiding becomes a terrorist offence**

A person aids an act of terrorism when:

- 1° he/she knows that he is aiding an act of terrorism;
- 2° he/she does so with the knowledge that he is assisting a person, a group or a terrorist organization;
- 3° he/she does so knowing that the person he/she is assisting committed terrorism.

Article 27: Financing a prohibited organization

Any person who mobilises funds, property or any

Article 25 : Possession des matières et des écrits

Commet un acte de terrorisme quiconque possède des matières pouvant servir à la fabrication des armes chimiques, des documents relatifs à la fabrication et à l'utilisation de ces armes, la matière servant dans la fabrication de ces armes, ou qui les fabrique en industrie, dans l'objectif de porter sérieusement atteinte au corps d'autrui, endommager son patrimoine ou l'environnement.

Section 5: De l'assistance aux organisation ou à un groupe de terrorisme**Article 26 : Quand l'assistance devient un acte terroriste.**

Une personne fournit une assistance dans la commission d'un acte de terrorisme lorsque:

- 1° elle le fait tout en sachant qu'il s'agit d'un acte de terrorisme ;
- 2° elle le fait tout en sachant qu' elle donne son assistance à une personne, à un groupe ou à une organisation qui se livrent au terrorisme;
- 3° elle le fait tout en sachant que la personne à qui elle donne son assistance a commis un acte terroriste.

Article 27: Financement d'une organisation interdite

Commet une infraction de terrorisme celui qui

ishyirahamwe ryabujijwe gukora mu buryo buteganywa n'ingingo ya 10 y'iri tegeko, inkunga yaba amafaranga, umutungo cyangwa indi nkunga iyo ari yo yose.

Icyiciro cya 6:Umutungo wo gutera inkunga ibikorwa by'iterabwoba

Ingingo ya 28: Umutungo ukomoka ku bikorwa by'iterabwoba

Umutungo wavuye mu bikorwa by'iterabwoba ni umutungo, waba wose cyangwa igice uguizwe mu buryo buziguye cyangwa butaziguye n'ibyavuye muri ibyo bikorwa harimo inyishyu cyangwa ibihembo bifitanye isano n'ibyo bikorwa.

Ingingo ya 29: Umutungo w'ishyirahamwe ryabujijwe gukora

Umutungo w'ishyirahamwe ryabujijwe gukora ku mpamvu zifitanye isano n'iterabwoba ni amafaranga, undi mutungo ukoreshwya cyangwa ubitswe, ugomba gukoreshwya cyangwa kubikwa n'iryo shyirahamwe.

Ingingo ya 30: Gutunga no gukoresha umutungo ukomoka ku iterabwoba

Umntu wese utunze cyangwa ukoresheje amafaranga cyangwa undi mutungo ukomoka ku iterabwoba n'ushyigikiye iterabwoba, aba akoze icyaha cy'iterabwoba.

Ingingo ya 31: Guhishira abakora iterabwoba

Aba akoze icyaha cyo guhishira abakora iterabwoba,

other support for an organization prohibited under article 10 of this Law shall be guilty of an offence of terrorism.

Section 6: Property to support acts of terrorism

Article 28: Property from acts of terrorism.

The property from the acts of terrorism is any or part of property composed of direct or indirect outcomes of such acts of terrorism including compensation or awards related to such acts.

Article 29: Property of a prohibited organization

The property of a prohibited organization due to reasons related to terrorism implies funds, any other property to be used or on account or one which should be used or kept by the organization.

Article 30: Owning and using patrimony from terrorism

Any person who possesses or uses money or any other property from terrorism and any other person who supports terrorism commits the offence of terrorism.

Article 31: Concealing terrorists

Any person commits the offence of terrorism who

recherche pour une organisation interdite conformément à l'article 10 une aide financière, en patrimoine ou toute autre aide.

Section 6: Patrimoine pour le financement des actes de terrorisme

Article 28: Patrimoine provenant des actes de terrorisme.

Le patrimoine provenant des actes de terrorisme signifie l'ensemble ou une partie des biens composés, directement ou indirectement, des produits de ces actes y compris les prestations ou primes relatives à ces actes.

Article 29: Patrimoine d'une organisation interdite

Le patrimoine d'une organisation interdite signifie les fonds, autre patrimoine ou les fonds logés sur les comptes devant être utilisés ou gardés par cette organisation.

Article 30: Possession et usage du patrimoine provenant du terrorisme

Quiconque possède ou use des capitaux ou autres produits du terrorisme ou qui appuie le terrorisme commet une infraction de terrorisme.

Article 31: Recel de terroristes

Commét une infraction de recel du terrorisme,

umuntu wese utamenyesheje abashinzwe umutekano n'izindi nzego zibishinzwe kandi azi neza cyangwa akeka ko undi muntu yakoze cyangwa ategura gukora cyangwa gutera inkunga ibikorwa by'iterabwoba.

Iningo ya 32: Gutanga amakuru ku mafaranga akekwa kuba akomoka ku iterabwoba

Umuntu wese ufile amakuru, ukeka cyangwa wizera ko amafaranga cyangwa undi mutungo ari uw'umuntu ukora iterabwoba cyangwa ukomoka mu bikorwa by'iterabwoba agomba kubimenyesha abashinzwe umutekano cyangwa izindi nzego zibishinzwe akibimenya cyangwa se akibikeka.

Iningo ya 33: Gutanga amakuru ku gikorwa cy'iterabwoba

Umuntu wese urebwa n'ibivugwa mu birebana no kugira uruhare mu masezerano y'amafaranga cyangwa undi mutungo ntabwo aba akeka cyangwa yizera ko amafaranga cyangwa undi mutungo ari uw'umuntu ukora iterabwoba n'ijo ubivuga yaba akeka amakuru ashingiraho abyemeza.

Iningo ya 34: Gutanga amakuru

Ibivugwa mu ngingo ya 33 y'iri tegeko bijyanye no gutanga amakuru ku gikorwa cy'iterabwoba bikurikizwa gusa iyo umuntu watanze amakuru yari ataratahurwa.

doesn't inform the security forces and other relevant organs or who suspects any other person to have committed or attempts to commit or to finance acts of terrorism.

Article 32: Disclosing information regarding to money suspected to have resulted from terrorism

Any person who has information to suspect or to confirm that the money or any other property belongs to a terrorist or that it is as a result of acts of terrorism shall notify security organs or other relevant authorities immediately when it comes to his/her knowledge or suspicion.

Article 33: Disclosing information of a terrorist act

Any person concerned with provisions relating to participation in money agreements or any other property shall not have committed an offence if he/she notifies security organs, and other relevant authorities on suspicion or confirmation that the money or any other property belongs to a terrorist, even if he/she suspects while the information of his/her basis confirms so.

Article 34: Disclosing information

Provisions referred to in Article 33 of this Law relating to disclosure of information on a terrorist act shall apply only if the informant is not yet identified.

quiconque n'informe pas les agents de sécurité et d'autres organes compétents alors qu'il sait ou soupçonne ou qu'il a des raisons fondées de croire qu'une personne a commis ou envisage de commettre ou d'appuyer les actes de terrorisme.

Article 32: Donner des informations sur des fonds soupçonnés issus du terrorisme

Quiconque dispose des informations, soupçonne ou a des raisons fondées qui le poussent à croire que les capitaux ou autres biens appartiennent à un terroriste ou proviennent des actes de terrorisme doit immédiatement le notifier aux agents de sécurité ou à d'autres organes compétents après avoir eu connaissance ou dès le soupçon.

Article 33: Déclaration d'un acte de terrorisme

Ne commet pas d'infractions, quiconque, étant concerné par les dispositions relatives à la participation aux transactions ayant trait aux capitaux ou aux autres biens, déclare aux organes de sécurité ou à toute autre autorité compétente qu'il soupçonne ou affirme que ce capital ou ces autres biens appartiennent à un terroriste même si le dénonciateur se base sur des informations justifiant ce soupçon.

Article 34: Fournir les informations

Les dispositions de l'article 33 de la présente loi sur la déclaration des informations sur les actes de terrorisme ne s'appliquent que si la personne l'a fait avant qu'elle ne soit identifiée.

Ibyo ntibikurikizwa ku muntu watanze amakuru agakomeza ibikorwa by'iterabwoba.

Iningo ya 35 : Ifatira ry'umutungo

Urukiko rwaciriye umuntu urubanza ku cyaha cyo gutera inkunga ibikorwa by'iterabwoba rutanga icyemezo cy'ifatira ry'umutungo wa nyiri ibyo bikorwa.

Icyiciro cya 7: Ifatira ry'amarafaranga y'abakora iterabwoba

Iningo ya 36: Ububasha bw'umukozi ubishinzwe

Iyo afashe amafaranga y'umuntu, y'agatsiko cyangwa y'ishyirahamwe bikekwa ko bikoreshw mu gutera inkunga iterabwoba, umukozi ubifitiye ububasha abikorera inyandikomvugo mbere yo kuyashyira kuri konti iri muri Banki Nkuru y'Ighugu. Iyo nyandikomvugo ikorwa mu gihe kitarenze amasaha makumyabiri n'ané (24) afatiriwe.

Kopi y'ijo nyandikomvugo ihabwa uwafatiriwe amafaranga n'inzezo zikuriye uwo mukozi kandi igashyikirizwa Ubushinjacyaha Bukuru.

Iningo ya 37 : Igihe icyemezo cy'ifatira kimara

Ubushinjacyaha Bukuru busaba Urukiko rubifitiye ububasha icyemezo cyo gukomeza kubika amafaranga

Such provisions shall not apply to the person who discloses information and continues commit terrorist acts.

Article 35: Confiscation of property

The court that tried an accused on an offence of aiding terrorist acts shall issue a deed of confiscation of the property of the accused.

Section 7: Seizure of terrorist funds

Article 36: Competence of a competent official

Any competent official, in case he/she confiscates funds of a person, a group or an organization suspected to be used in financing terrorism shall make a statement thereof before depositing them on account in the National Bank of Rwanda. The statement shall be made in a period not exceeding twenty four (24) hours from the time of seizure.

The copy of such a statement shall be given to the person whose funds have been confiscated by the superior authorities of such an official and to the National Public Prosecution Authority.

Article 37: Validity of the certificate of the seizure of seizure

The National Public Prosecution Authority shall request the competent court to provide a certificate to

Ces dispositions ne s'appliquent pas à la personne ayant fait les déclarations qui continue de poser des actes de terrorisme.

Article 35 : Confiscation des biens

Le tribunal ayant condamné une personne pour crime de financement des actes de terrorisme ordonne la confiscation des biens du coupable.

Section 7: Saisie des fonds appartenant aux terroristes

Article 36: Compétence de l'agent habilité

En cas de saisie de fonds appartenant à une personne, un groupe ou une organisation soupçonné d'être utilisé pour financer les actes de terrorisme par un agent compétent, celui-ci dresse un procès-verbal y relatif avant de déposer cet argent au compte ouvert à la Banque Nationale du Rwanda. Le procès-verbal est dressé dans un délai ne dépassant pas vingt quatre (24) heures à compter de la saisie.

La copie de ce procès-verbal est transmise à la personne dont l'argent est saisi, aux supérieurs hiérarchiques de l'agent saisissant et à l'Organisation nationale de Poursuite Judiciaire.

Article 37: Duré de validité de l'ordonnance de saisie

L'Organisation Nationale de Poursuite Judiciaire Parquet demande à la Juridiction compétente l'ordonnance de

yafatiriwe, icyo cyemezo kimara igihe cy'amezi atatu (3) gishobora kongerwa.

Iningo ya 38: Uhamwa n'icyaha hari amafaranga yafatiriwe

Iyo urkurikiranywe ahamwe n'icyaha cyo gutera inkunga ibikorwa by'iterabwoba hari amafaranga ye yafatiriwe, Urukiko rufata icyemezo ku cyerekezo cy'ayo mafaranga.

Iningo ya 39: Icyemezo kireba amafaranga yafatiriwe

Iyo urukiko rusanze amafaranga yafatiriwe yari agenewe gukoreshwa mu bikorwa by'iterabwoba ruyegurira Leta y'u Rwanda. Amafaranga yose yafatiwe icyemezo cy'ifatira agenerwa Umutwe ushinzwe kurwanya iterabwoba mu Gihugu iyo urubanza rwarangiye burundi, kandi uregwa yahamwe n' icyaha. Iyo rusanze ayo mafaranga ataragenewe ibikorwa by'iterabwoba asubizwa nyirayo.

Iningo ya 40: Ifatira n'inyaga ry'undi mutungo

Bubisabwe n'umukozi ubifitiye ububasha cyangwa Ubugenzacyaha, cyangwa bubyibwirije, Ubushinjacyaha Bukuru bushobora gusaba Urukiko gutanga icyemezo cyo gufatira undi mutungo w'abakekwaho gukora ibikorwa by'iterabwoba.

the custody of the seized funds. The certificate shall be valid last for three (3) months renewable.

Article 38: Convicted person in case of seized funds

In case the accused is convicted of financing terrorist acts, when there are seized funds, the court shall take decision on such amount.

Article 39: Decision on the seized funds

Where the court finds that the seized funds are meant for being used in terrorist acts, it shall give them to the Government of Rwanda. The seized funds shall be given to the Country's antiterrorist Unit when the final judgement is rendered and when the accused is convicted. In case the court finds that the funds were not meant for terrorist acts, they shall be given back to the owner.

Article 40: Seizure and dispossession of other property

Upon request by a competent officer or the judicial police, or at its own initiative, the National Public Prosecution Authority may request the court to issue a certificate permitting the confiscation of other property of terrorist suspects.

conservation de l'argent confisqué. La validité de cette ordonnance est d'une durée de trois (3) mois renouvelable.

Article 38: Personne reconnue coupable en cas de saisie de fonds

Si le prévenu est reconnu coupable d'une infraction de financement des actes du terrorisme dans une affaire où il y a eu saisie de fonds, la juridiction prend la décision sur la destination de cet argent.

Article 39: Décision sur les fonds saisis

Si la juridiction constate que les fonds saisis étaient destinés aux actes de terrorisme, ils sont versés au trésor public. Tous les fonds saisis sont donnés à l'Unité antiterroriste du pays après jugement définitif. Si la juridiction constate que ces fonds n'étaient pas destinés aux actes de terrorisme, ils sont restitués au propriétaire.

Article 40: Saisie et dépossession d'autres biens

Sur proposition d'un agent compétent ou de l'officier de police judiciaire ou de sa propre initiative, l'Organe National de Poursuite Judiciaire peut demander à la juridiction d'émettre une ordonnance de procéder à la confiscation d'autres biens appartenant aux personnes soupçonnées de terrorisme.

Iyo urukiko rusanze uwo mutungo warakoreshejwe cyangwa wari gukoreshwa mu iterabwoba rurawunyaga rukawegurira Leta.

Iyo urukiko rusanze uwo mutungo utaragenewe ibikorwa by'iterabwoba usubizwa nyirayo.

Iningo ya 41: Ubujurire

Icyemezo cy'urukiko ku mutungo w'abakekwaho ibikorwa by'iterabwoba kijuririrwa hakurikijwe ibiteganywa n'amategeko.

Iyo urukiko rusanze uwo mutungo wafatiriwe warakoreshejwe cyangwa wari ugenewe gukoreshwa mu bikorwa by'iterabwoba, ruwegurira Leta, ugakoreshwa hakurikijwe ibiteganywa n'ingingo ya 39 y'iri tegeko.

Iyo urukiko rusanze uwo mutungo utari ugenewe ibikorwa by'iterabwoba, usubizwa nyirawo.

UMUTWE WA III: UBUBASHA BWO KURWANYA ITERABWOBA

Icyiciro cya mbere: Igota ry'ahakekwaho ibikorwa by'iterabwoba

Iningo ya 42: Igota n'abashinzwe kurikora

Iyo hari ahantu hakekwa ibikorwa by'iterabwoba, umupolisi cyangwa undi muntu ushinzwe umutekano

In case the Court finds that such property was used or was to be used in terrorism, it shall seize it and thereafter give it to the State.

In case the Court finds that the property was not meant for terrorist acts, the property shall be returned to the owner.

Article 41: Appeal

The Court decision on the property of terrorist suspects shall be appealed against in accordance with the provisions of the law.

Where the Court finds that such confiscated property was used or meant to be used in terrorist acts, the property shall be given to State and be used in accordance with provisions of Article 39 of this Law.

In the case the Court finds that the property was not meant for being used in terrorist acts, the property shall be returned to the owner.

CHAPTER III: COMPETENCE TO COUNTER TERRORISM

Section One: Cordonning an area suspected of terrorism activities

Article 42: Cordonning and responsible persons

In case there is an area suspected of acts of terrorism, a police officer or any other person in charge of

Lorsque la juridiction constate que ces biens ont été utilisés ou étaient destinés à être utilisés dans les actes de terrorisme, elle procède à la dépossession des biens et les remet à l'Etat.

Lorsque la juridiction constate que les biens saisis ne sont pas destinés aux actes de terrorisme, ils sont restitués à leur propriétaire.

Article 41: Recours

Le recours contre la décision d'une juridiction sur les biens des personnes soupçonnées de commettre des actes de terrorisme se fait conformément à la loi.

Si la juridiction constate que les biens saisis ont été utilisés ou étaient destinés aux actes de terrorisme, elle les remet à l'Etat pour être utilisés conformément aux dispositions de l'article 39 de la présente loi.

Lorsque la juridiction constate que les biens saisis ne sont pas destinés aux actes de terrorisme, ils sont restitués à leur propriétaire.

CHAPITRE III: DE LA COMPETENCE DANS LA LUTTE CONTRE LE TERRORISME

Section première: Encerclement d'un lieu présumé abriter les opérations de terrorisme

Article 42: Encerclement et autorité compétente

Un agent de police ou tout autre agent de sécurité compétent peut effectuer l'encerclement d'un lieu

ashobora kuhagota, agahita abimenyesha Ubuyobozi bwa Polisi.

Iyo isanze ari ngombwa, Polisi y'Igihugu ikomeza kugota aho hantu kugeza igithe impamvu zatumye iryo gota ribaho zirangiye. Polisi y'Igihugu igaragaza imbibibi z'ahagoswe iyo bishoboka, kandi aho hantu hashyirwa ikimenyetso cyanditseho **“Police”**.

Ingingo ya 43: Ukarindwa kw'ahagoswe

Umupolisi, cyangwa undi mukozi wese wabiherewe ububasha ashobora:

- 1° gutegeka umuntu guhita ava mu gace kagoswe;
- 2° gukumira cyangwa kubuza abanyamaguru cyangwa ibinyabiziga kwinjira mu gace kagoswe;

Umuntu aba akoze icyaha iyo abangamiye ishyirwa mu bikorwa ry'ibiteganywa n'igika cya mbere cy'iyi ngingo.

Abimuwe cyangwa abavanywe mu byabo bitabwaho n'inezgo za Leta zibishinzwe.

security shall cordon off the area and immediately inform police authorities.

If considered necessary, the National Police shall proceed to cordon off the area until the reasons for cordoning cease. The National Police shall demarcate the boundaries of the areas under siege and such a place shall be marked with a sign post with the word **“Police”** written on.

Article 43: Protection of a cordoned area

A police officer or any other authorised officer may:

- 1° order a person to vacate the cordoned area;
- 2° prevent or prohibit pedestrians or vehicles from entering into the cordoned area;

Any person who contradicts the implementation of the provisions of Paragraph One of this Article shall commit an offence.

Displaced persons shall be catered for by the relevant state organs.

présumé abriter les opérations de terrorisme et le notifier immédiatement aux autorités de police.

S'il s'avère nécessaire, la Police Nationale continue d'encercler l'endroit jusqu'à ce que les raisons ayant poussé à l'encerclement soient levées. La Police Nationale montre les limites de l'endroit encerclé si c'est possible et y place un signal portant la mention **“Police”**.

Article 43: Protection du lieu encerclé

L'agent de police ou tout autre agent compétent peut:

- 1° ordonner qu'une personne quitte directement la zone encerclée ;
- 2° empêcher ou interdire les piétons ou les véhicules d'entrer dans la zone encerclée;

Commet une infraction, toute personne qui entrave l'application des dispositions de l'alinéa premier du présent article.

Les personnes déplacées ou obligées de quitter leurs biens sont prises en charge par les organes compétents de l'Etat.

Icyiciro cya 2: Gufata no gusaka nta rupapuro rwabugenewe

Ingingo ya 44 : Gufata ukekwaho iterabwoba nta rupapuro rwabugenewe

Abashinzwe umutekano bashobora gufata umuntu ukekwaho iterabwoba nta rupapuro rwabugenewe, ariko bakabimenesha ubuyobozi bubishinzwe bitarenze amasaha mirongo ine n'umunani (48).

Ingingo ya 45: Gufata no gusaka nta nteguza

Umupolisi, umwe mu bagize inzego z'umutekano cyangwa undi muntu wese wabiherewe ububasha bashobora gufata umuntu nta rupapuro rwabigenewe, iyo hari impamvu zumvikana zo gukeka ko uwo muntu yakoze cyangwa agiye gukora iterabwoba akamushyikiriza sitasiyo ya polisi imwegereye mu gihe kitarenze amasaha mirongo ine n'umunani (48).

Bashobora kandi kwinjira no gusaka inyubako zose uwo muntu yari arimo bikamenyeshwa ubuyobozi bwa polisi bitarenze amasaha mirongo ine n'umunani (48).

Icyiciro cya 3: Icyemezo cyo gufata no gusaka

Ingingo ya 46: Icyemezo cyo gufata no gusaka n'ugitanga

Bitabangamiye ibivugwa mu ngingo ya 45 y'iri tegeko, icyemezo cyanditswe cyo gufata ukekwaho ibikorwa by'iterabwoba cyangwa icyo gusaka

Section 2 : Arrest and search without warrant

Article 44: Arresting a terrorist suspect without an arrest warrant

Security agents may arrest a terrorist suspect without an arrest warrant but shall notify the relevant authorities not later than forty eight (48) hours.

Article 45: Impromptu arrest and search

A Police officer, a security agent or any other authorised person may arrest without warrant in case of clear reasons for suspecting such a person to have committed or attempts to commit acts of terrorism and shall hand him/her over to the nearest police station in a period not exceeding forty eight (48) hours.

They may also enter and search all buildings in which such a suspect lives and the police authorities shall be informed in a period not exceeding forty eight (48) hours.

Section 3: Arrest warrants and search

Article 46: Arrest warrant and person to issue it

Without prejudice to the provisions of Article 45 of this Law, a written authorization to arrest a terrorist suspect or search terrorist suspects shall be signed by

Section 2 : Arrestation et perquisition sans mandat

Article 44: Arrestation de la personne soupçonnée d'acte de terrorisme sans mandat d'arrêt

Les agents de sécurité peuvent arrêter une personne soupçonnée de terrorisme sans mandat d'arrêt et doivent en informer l'autorité compétente endéans quarante-huit (48) heures.

Article 45: Arrestation et perquisition improvisée

Un agent de police, un agent de sécurité ou tout autre agent compétent peut, lorsqu'il a des raisons pouvant susciter la suspicion de la commission ou de l'intention de la commission d'un acte de terrorisme, arrêter sans mandat d'arrêt une personne soupçonnée et la transférer à la station de police la plus proche dans un délai ne dépassant pas quarante-huit (48) heures.

Ils peuvent également entrer et faire une perquisition de tous les bâtiments fréquentés par la personne soupçonnée et notifier l'autorité de police dans un délai de quarante-huit (48) heures.

Section 3: Mandats d'arrêts et perquisition

Article 46: Mandat d'arrêt et autorité compétente

Sans préjudice des dispositions de l'article 45 de la présente loi, le mandat d'arrêt écrit ou de perquisition doit être rédigé et signé par l'un des agents ci-après :

abakekwaho ibyo bikorwa, gishyirwaho umukono n'umwe muri aba bakurikira :

- 1° umupolisi uri mu rwego rwa ofisiye;
- 2° umukozi wa gasutamo ubifitiye ububasha;
- 3° umusirikare uri mu rwego rwa ofisiye;
- 4° umukozi wese wo mu rwego rw'Ighugu rushinzwe umutekano ubifitiye ububasha.

Iningo ya 47: Igihe icyemezo cyo gufata kimara

Icyemezo gitangwa n'abavugwa mu ngingo ya 46 y'iri tegeko ntigishobora kurenza amasaha mirongo irindwi n'abiri (72). Uwagifashe ahita abimenyesha ubuyobozi bwa Polisi. Ubushinjacyaha Bukuru butanga ububasha bwo gufata no gusaka busimbura icyo cyemezo, iyo ari ngombwa.

Icyiciro cya 4: Ububasha bwo gufata no gusaka

Iningo ya 48: Isakwa ry'ibinyabiziga n'abantu babirimo

Umopolisi cyangwa undi mukozi wabiherewe ububasha afite uburenganzira bwo gufata no gusaka :

- 1° ikinyabiziga;
- 2° umushoferi w'icyo kinyabiziga;
- 3° umugenzi uri muri icyo kinyabiziga;
- 4° ikintu cyose kiri mu kinyabiziga.

Ububasha buvugwa mu gika cya mbere cy'iyi ngingo

one of the following persons:

- 1° a police officer by rank;
- 2° an authorized custom official;
- 3° an army officer;
- 4° any authorised officer from the National Security Service.

Article 47: Validity of the arrest warrant

The warrant issued by persons mentioned in Article 46 of this Law shall not exceed seventy two (72) hours. The authority who issued it shall immediately notify the Police authorities. The National Public Prosecution Authority shall issue the authorization to arrest and search in order to replace the arrest warrant if deemed necessary.

Section 4: Competence to arrest and search

Article 48: Search of vehicles and passengers on board

A police officer or any other authorized agent has the right to arrest and to search:

- 1° a vehicle;
- 2° a driver of such a vehicle;
- 3° a passenger on board;
- 4° any object in such a vehicle.

The power mentioned in paragraph one of this article

- 1° un agent de police du grade d'officier;
- 2° un agent compétent en douane;
- 3° un militaire du grade d'officier;
- 4° tout agent compétent du Service National de Sécurité.

Article 47: Délai de validité du mandat d'arrêt.

La durée de validité du mandat livré par les personnes prévues à l'article 46 de la présente loi ne peut dépasser soixante douze (72) heures. La personne qui a émis le mandat informe directement l'autorité de police. L'organe National de Poursuite Judiciaire délivre, en cas de nécessité, l'autorisation d'arrestation et de perquisition tenant lieu du mandat d'arrêt.

Section 4 : Compétence en matière d'arrestation et de fouille

Article 48: Fouille de véhicules et fouille de passagers à bord

Un agent de police ou tout autre agent compétent est investi de compétence d'arrêter et de fouiller :

- 1° un véhicule;
- 2° le chauffeur de ce véhicule;
- 3° le passager à bord;
- 4° tout objet à bord du véhicule.

La compétence prévue à l'alinéa premier du présent

bugaragaza ahantu cyangwa agace runaka gakorerwamo iryo sakwa.

Iningo ya 49 : Isakwa ry'abanyamaguru

Ububasha buvugwa muri uyu mutwe wa III buha ububasha umupolisi wese cyangwa undi mukozi ubyemerewe wambaye imyenda y'akazi bimuranga guhagarika umunyamaguru ahantu runaka cyangwa mu gace kavugwa muri ubwo bubasha ndetse no gusaka ikintu cyose aketse.

Iningo ya 50 : Igihe cy'imenyekanisha ry'ububasha bwo gufata no gusaka

Iyo ububasha bwo gufata no gusaka butanzwe mu magambo, ubutanze agomba kubyemeza mu nyandiko mu gihe kitarenze amasaha makumyabiri n'ané (24) n'ubwo icyo gikorwa cyaba cyarangiyé.

Iningo ya 51: Kwinjira mu nyubako hakoreshejwe imbaraga

Umupolisi cyangwa undi mukozi ubifitiye ububasha ashobora gukoresha imbaraga mu kwinjira mu nyubako iyo ba nyirayo bamwangiye kuyinjiramo cyangwa yanze gufunguka, n'ubwo byaba ngombwa ko hagira igisenya cyangwa cyangizwa ku mutungo.

Iningo ya 52: Kwifashisha impuguke

Hubahirijwe n'andi mategeko ku mikoreshereze y'impuguke, igihe cyose bibaye ngombwa abahanga mu bijyanye n'ibisakwa baritabazwa.

shall indicate the place or a certain area in which such a search can be conducted.

Article 49: Search of pedestrians

The power mentioned in this Chapter III is vested with any police officer or other authorized agent in a uniform of that particular duty to stop a certain pedestrian in a certain place or in an area specifically mentioned as well as to search for any suspicious object.

Article 50: Period for notification of competence to arrest and search

If competence to arrest and search is authorized in words, the grantor shall demonstrate it in writing in a period not exceeding more than twenty four (24) hours although such an act may have been completed.

Article 51: Forceful entrance into buildings

Any police officer or any other authorised worker may forcefully enter into a building in case the owners refuse him/her to enter or in case of failure to open, even if it is necessary to demolish it or destroy a part of the property.

Article 52: Use of experts

In respect of other laws on the use of experts, search experts in related fields shall be consulted at any time.

article définit l'endroit ou la zone soumis à la fouille.

Article 49 : Fouille de piétons

La compétence prévue dans le présent chapitre III confère à tout agent de police ou tout agent autorisé portant l'uniforme de service d'arrêter un piéton dans une zone ou un endroit à l'intérieur de cette compétence et d'effectuer la fouille de toute chose soupçonnée.

Article 50: Délai de communication de la compétence d'arrestation et de fouille

Lorsque la compétence est conférée verbalement, l'autorité qui la confère doit l'attester par écrit dans un délai ne dépassant pas vingt quatre (24) heures même si l'opération est terminée avant cette période.

Article 51: Entrée par force dans une installation

Si l'entrée normale d'une installation est interdite ou barrée par les propriétaires, l'agent de police ou autre agent compétent peut nonobstant toute destruction ou détérioration de la propriété, entrer par force.

Article 52: Réquisition d'experts

Dans le respect d'autres lois relatives à l'expertise, en tout état de cause s'il s'avère nécessaire, les experts en perquisition peuvent être requis.

Ingingo ya 53: Ibika ry'ibimenyetso bifatiwe mu isakwa

Ushinzwe isaka ashobora gufata ikintu cyose abonye mu gikorwa cy'iterabwoba kandi afitiye ibimenyetso bituma akeka ko cyakoreshwa ibikorwa by'iterabwoba akagishyikiriza sitasiyo ya polisi imwegereye.

Icyiciro cya 5: Gufata no gufunga**Ingingo ya 54 : Ugufatwa k'ukekwa**

Ushinzwe umutekano cyangwa undi wese ubifitiye ububasha, abifitiye urupapuro rwabigenewe no ku mpamvu zo gukora iperereza, afata umuntu afitiye impamvu zigaragara ko akora igikorwa cy'iterabwoba akamushyikiriza sitasiyo ya Polisi ibegereye mu gihe kitarenze amasaha mirongo ine n'umunani (48) hakurikijwe ibiteganywa mu ngingo ya 45 y'iri tegeko.

UMUTWE WA IV: UBUFATANYE MPUZAMAHANGA**Ingingo ya 55: Ubufatanye n'izindi Leta**

Leta y'u Rwanda, igirana ubufatanye n'izindi Leta mu rwego rwo guhana amakuru, iperereza n'ikurikirana bigamije ibyemezo bishingana by'agateganyo, ifatira n'ubunyage bw'ibikoresho, amafaranga n'umutungo bifitanye isano n'iyezandonke no gutera inkunga iterabwoba, ku mpamvu zo guhererekanya abanyabyaha n'iz'ubufatanye mu bya tekiniki.

Article 53: Storage of the evidence from a search

A person responsible for a search may, with sufficient grounds, seize any object seen in terrorist act that can be an exhibition that the person may commit an act of terrorism and shall hand over to the nearest police station.

Section 5: Arrest and imprisonment**Article 54: Arrest of the suspect**

A security officer or any other authorised person who is in possession of an arrest warrant and for reasons of conducting investigations, shall, on justified grounds arrest a person who is suspected of committing terrorist acts and shall hand him/her over to the nearest police station in accordance with provisions of Article 45 of this Law in a period not exceeding forty-eight (48) hours.

CHAPTER IV: INTERNATIONAL COOPERATION**Article 55: Cooperation with other States**

The Government of Rwanda shall be in cooperation with other countries in the framework of exchange of information, conduct of investigation, prosecution with intention of provisional seizure for security, confiscation and dispossession of property, funds and property relating to money laundering and financing terrorism, extradition and technical cooperation.

Article 53: Conservation des indices résultant de la perquisition

L'agent chargé de la perquisition peut saisir toute chose trouvée s'il a des raisons fondées pouvant lui permettre de croire que cette chose peut servir à commettre des actes de terrorisme et la remettre à la station de police la plus proche.

Section 5: Arrestation et détention**Article 54: Arrestation du suspect**

L'agent de sécurité ou tout autre agent compétent, muni d'un mandat, et disposant d'éléments lui permettant de soupçonner qu'une personne commet un acte de terrorisme peut arrêter cette personne pour raison d'enquête et la remettre à la station de police la plus proche dans un délai ne dépassant pas quarante-huit (48) heures conformément à l'article 45 de la présente loi.

CHAPITRE IV: COOPERATION INTERNATIONALE**Article 55: Coopération avec d'autres Etats**

L'Etat rwandais coopère avec d'autres Etats dans le cadre de l'échange d'informations, de la réalisation d'une enquête et des poursuites en vue des mesures conservatoires, de saisie, de dépossession des équipements, des capitaux et des biens liés au blanchiment de capitaux et au financement du terrorisme pour des raisons d'extradition et de coopération technique.

Iningo ya 56: Ibisabirwa ubufatanye

Bisabwe na Leta y'ikindi gihugu, isaba ry'ubufatanye mu byerekeranye n'ibyaha bivugwa muri iri tegeko rikorwa ku buryo bujyanye n'amahame risobanura.

Mu bufatanye hashobora kubamo:

- 1° gusaba ibimenyetso cyangwa ubuhamya ku bantu;
- 2° gufasha abayobozi mu by'ubutabera ba Leta y'ikindi gihugu kugera ku bantu bafunze cyangwa abandi bantu kugira ngo batange ubuhamya cyangwa bafashe iperereza;
- 3° gutanga inyandiko iyo ariyo yose ijyanye n'ubucamanza ;
- 4° gusaka no gufatira;
- 5° gusuzuma ibintu n'aho biri;
- 6° gutanga amakuru n'ibindi byagaragaza ibimenyetso;
- 7° gutanga impapuro z'umwimerere cyangwa ziriho umukono wa noteri, z'inyandiko n'ibindi bikubiyemo amakuru bya ngombwa harimo ibya Leta, ibya banki, iby'imari cyangwa iby'imiryango cyangwa ubucuruzi.

Article 56: Purpose for request of cooperation

The request for mutual legal assistance from a foreign State relating to the offences under this Law shall be carried out in accordance with the principles defined by this Law.

The cooperation may include:

- 1° collection of evidence or statements from persons;
- 2° assistance of foreign state legal authorities in providing access to detained persons or other persons in order to witness or to help in the enquiries;
- 3° providing of any judicial document;
- 4° executing searches and seizures;
- 5° examining objects and visiting sites;
- 6° providing information, and evidentiary items
- 7° providing originals or certified copies of relevant documents, including official documents, bank statements, accounting documents and registers showing the functioning of an enterprise or its commercial activities.

Article 56: Motifs de demande de coopération

Sur requête d'un Etat étranger, la demande de coopération en matière d'infractions prévues dans la présente loi se fait conformément aux principes qu'elle définit.

La coopération peut porter sur les éléments suivants :

- 1° le recueil de témoignages ou de dépositions ;
- 2° l'aide aux autorités judiciaires de l'Etat étranger en mettant à leur disposition des personnes détenues ou d'autres personnes, aux fins de témoignage ou d'assistance dans la conduite de l'enquête ;
- 3° la remise de tout document judiciaire ;
- 4° les perquisitions et les saisies ;
- 5° l'examen d'objets et les descentes sur les lieux ;
- 6° la fourniture de renseignements et de pièces à conviction ;
- 7° la présentation des originaux ou de copies certifiées conformes aux dossiers et documents pertinents y compris des documents officiels, des relevés bancaires, des pièces comptables, des registres montrant le fonctionnement d'une entreprise ou ses activités commerciales.

Iningo ya 57: Kutemera ubufatanye

Gusaba ubufatanye bishobora gusa kwangwa iyo :

- 1° bishobora kubangamira umudendezo, ubusugire, umutekano n'amahame y'ingenzi ya Repubulika y'u Rwanda;
- 2° ubuyobozi babisaba butabihererwa ububasha n'itegeko rya Leta isaba;
- 3° ibyo isaba rishingiraho byahaniwe cyangwa byafashweho icyemezo bidasubirwaho n'urukiko mu ifasi ya Repubulika y'u Rwanda ;
- 4° icyaha isaba rishingiraho kitaba mu mategeko y'u Rwanda cyangwa kidahuje imiterere n'icyaha kiba mu mategeko ya Repubulika y'u Rwanda ;
- 5° ibyemezo bisabwa, cyangwa ibindi byemezo, bifite ingaruka zimwe bitemewe n'itegeko rya Repubulika y'u Rwanda cyangwa bidashobora gukurikizwa ku byaha isaba rishingiraho mu mategeko ya Repubulika y'u Rwanda ;
- 6° ibyemezo bisabwa bidashobora gufatwa cyangwa ngo byubahirizwe bitewe n'ubuzime bw'icyaha cy'iterabwoba cyangwa gutera inkunga iterabwoba bitemanywa n'amategeko ya Repubulika y'u Rwanda cyangwa aya Leta isaba;

Article 57: Refusal of cooperation

Request for cooperation may only be rejected where:

- 1° it is likely to prejudice the public order, sovereignty, security or fundamental principles of the Republic of Rwanda;
- 2° the requesting authority is not competent under the requesting state Law;
- 3° the facts on which the request is based have already been definitively judged on the territory of the Republic of Rwanda;
- 4° the offence on which the request is based does not exist under the Law of the Republic of Rwanda or does not have common characteristics with an offence existing under the Law of the Republic of Rwanda;
- 5° the requested measures or other measures with similar effects are not authorized under the Law of the Republic of Rwanda or cannot be applied to the offences on which the request is based under the law of the Republic of Rwanda;
- 6° the requested measures cannot be decreed or executed because of the prescription of the crime of terrorism or financing terrorism under the Law of the Republic of Rwanda or under the Law of the requesting state;

Article 57 : Refus de coopération

La demande d'entraide ne peut être refusée que si :

- 1° son exécution risque de porter atteinte à l'ordre public, à la souveraineté, à la sécurité ou aux principes fondamentaux de la République du Rwanda;
- 2° elle n'émane pas d'une autorité compétente selon la législation du pays requérant ;
- 3° les faits sur lesquels elle porte ont déjà fait l'objet de sanction ou d'une décision judiciaire coulée en force de chose jugée sur le territoire de la République du Rwanda;
- 4° l'infraction visée dans la demande n'est pas prévue par la législation de la République du Rwanda ou ne présente pas de caractéristiques communes avec une infraction prévue par la législation de la République du Rwanda;
- 5° les mesures sollicitées ou toutes autres mesures ayant des effets analogues, ne sont pas autorisées par la législation de la République du Rwanda ou ne sont pas applicables aux infractions visées dans la demande d'après la législation de la République du Rwanda;
- 6° les mesures demandées ne peuvent être prises ou exécutées pour cause de prescription de l'infraction de terrorisme ou de financement du terrorisme d'après la législation de la République du Rwanda ou celle de l'Etat requérant;

- 7° icyemezo gisabwa gukurikizwa kitarebwa n'amategeko ya Repubulika y'u Rwanda;
- 8° icyemezo giturutse mu kindi gihugu cyategetswe mu buryo budatanga icyizere mu buryo buhagije mu birebana n'uburyo bwo kwiregura;
- 9° hari impamvu z'ingenzi zemeza ko isaba rigamije gukurikirana cyangwa guhana umuntu bishingiye ku gitsina, ibara ry'uruhi, idini n'ubwenegihugu, ubwoko cyangwa ibitekerezo bya politiki;
- 10° isaba rishingiye ku cyaha cya politiki cyangwa ritewe n'impamvu za politiki;
- 11° ikibazo kidasobanura neza ibyemezo byasabwe cyangwa se imikurikiranire y'icyemezo cy'urukiko rw'ikindi gihugu.

Guverinoma ya Repubulika y'u Rwanda imenyesha bidatinze impamvu yanze kubahiriza ibisabwa.

Ingingo ya 58: Gusaba gukora iperereza

Gukora anketi n'iperereza, bikorwa hakurikijwe amategeko ya Repubulika y'u Rwanda keretse abayobozi babishinzwe bo mu kindi gihugu basabye ko bikorwa mu buryo bwihariye butanyuranije n'amategeko ya Repubulika y'u Rwanda.

- 7° the requested measure to be implemented is not binding under the legislation of the Republic of Rwanda;
- 8° the decision from another country has been ordered in conditions that do not offer sufficient guarantees regarding the rights of the defense;
- 9° there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on the basis of sex, race, religion, nationality, ethnic origin or political opinions;
- 10° the request is based on a political offence or motivated by political consideration;
- 11° the case is not important enough to justify the requested measures or the enforcement of the foreign court decision.

The Government of the Republic of Rwanda shall communicate immediately the grounds for refusal of the request.

Article 58: Request for conducting investigations

Investigative and trial measures shall be executed in accordance with the laws of the Republic of Rwanda unless the competent authorities of another State requires that it be proceeded according to a specific form compatible with the legislation of the Republic of Rwanda.

- 7° la décision dont l'exécution est demandée n'est pas exécutoire sous la législation de la République du Rwanda;
- 8° la décision étrangère a été prononcée dans des conditions n'offrant pas de garanties suffisantes au regard des droits de la défense;
- 9° il y a de sérieuses raisons de croire que les mesures demandées ou la décision sollicitée ne visent la personne concernée qu'en raison de son sexe, de sa race, de sa religion, de sa nationalité, de son origine ethnique, de ses opinions politiques ;
- 10° la demande porte sur une infraction politique ou est motivée par des considérations d'ordre politique ;
- 11° l'importance de l'affaire ne justifie pas les mesures réclamées ou l'exécution de la décision rendue à l'étranger.

Le Gouvernement de la République du Rwanda communique sans délai au gouvernement étranger les motifs du refus d'exécution de sa demande.

Article 58: Demande de réalisation d'une enquête

Les mesures d'enquête et d'instruction sont exécutées conformément à la législation de la République du Rwanda, à moins que les autorités compétentes d'un autre Etat n'aient demandé qu'il soit procédé selon une procédure particulière compatible avec la législation de la République du Rwanda.

Umucamanza cyangwa umukozi wa Leta woherejwe n'ubuyobozi bwo mu kindi gihugu, ashobora gukurikirana iyubahirizwa ry'ibyo byemezo bitewe n'uko biri gukorwa n'umucamanza cyangwa umukozi wa Leta.

Iningo ya 59: Gusaba ibyemezo bishingana by'agateganyo.

Iyo ighugu cy'amahanga gisabye u Rwanda gufata ibyemezo bishingana by'agateganyo, urukiko rubifitiye ububasha rufata ibyo byemezo hakurikijwe amategeko ya Repubulika y'u Rwanda arebana na byo. Iyo iringo saba ryanditse mu buryo rusange, urukiko rufata ibyemezo bishingana by'agateganyo bikwiye hakurikijwe amategekoya Repubulika y'u Rwanda.

Iyo ibyemezo bisabwa bidahuje n'amategeko y'u Rwanda, urukiko rubifitiye ububasha rushobora kubisimbuza ibyemezo bikwiye biteganywa n'amategeko ya Repubulika y'u Rwanda.

Iningo ya 60: Gusaba ubunyage

Iyo habayeho isaba ry'ubufatanye ku mpamvu zo gufata ibyemezo byo kunyaga, urukiko rubifitiye Ububasha rufata icyemezo rubisabwe n'Ubushinjacyaha Bukuru. Icyemezo cy'ubunyage kireba umutungo n'ibikomoka cyangwa ibyakoreshejwe ku cyaha cyabereye ku butaka bwa Repubulika y'u Rwanda cyangwa kigatuma biba ngombwa ko hishyurwa amafaranga afite umubare ungana n'agaciro k'uwo mutungo.

A Judge or a civil servant sent by the requesting State may attend to the enforcement of the measures depending on whether they are executed by a judge or a civil servant.

Article 59: Request for provisional protective measures

In case a foreign country requests Rwanda to exercise provisionally protective measures, the competent Court shall order the aforementioned solicited protective measures according to the proper legislation of the Republic of Rwanda. If the request is written in general terms, the Court shall pronounce the most appropriate protective measures provided for by the legislation of the Republic of Rwanda.

In case the requested measures are not provided for by the Rwandan legislation, the competent Court may substitute them with appropriate measures provided for in the legislation of the Republic of Rwanda.

Article 60: Request for dispossession

In the case of a request for cooperation for the purpose of pronouncing a decision of dispossession, the competent Court shall take a decision upon request of the National Public Prosecutor Authority. The decision of dispossession shall concern an asset constituting the product or the instrument of an offence taking place on the territory of the Republic of Rwanda, or creating an obligation to pay an amount of money corresponding to the value of this

Un magistrat ou un fonctionnaire délégué par l'autorité compétente de l'Etat requérant peut assister à l'exécution des mesures selon qu'il s'agit d'un magistrat ou d'un fonctionnaire qui les exécute.

Article 59: Demande de mesures conservatoires

Lorsqu'un un Etat étranger demande au Rwanda de prendre des mesures conservatoires, la juridiction compétente du Rwanda ordonne lesdites mesures sollicitées conformément à la législation rwandaise. Si la demande est rédigée en termes généraux, la juridiction prononce les mesures les plus appropriées prévues par la législation rwandaise.

Dans le cas où les mesures sollicitées ne sont pas prévues par la législation rwandaise, la juridiction compétente peut leur substituer les mesures appropriées prévues par la législation de la République du Rwanda.

Article 60: Demande de confiscation

Dans le cas d'une demande d'entraide judiciaire à l'effet de prononcer une décision de confiscation, la juridiction compétente statue sur saisine de l'Organ National de Poursuite Judiciaire. La décision de confiscation doit viser un bien constituant le produit ou l'instrument ayant servi à commettre une infraction se trouvant sur le territoire de la République du Rwanda, ou peut consister en l'obligation de payer une somme d'argent correspondant à la valeur de ce

Urukiko rubifitiye ububasha igihe rwiga isaba ryo kubahiriza icyemezo cy'ubunyage cyafatiwe mu kindi gihugu, rusuzuma iby'icyo cyemezo cyashingiyeho, rukaba rwakwanga gushyira mu bikorwa iyo saba bitewe gusa n'impamvu imwe mu zivugwa mu ngingo ya 40 y'iri tegeko.

Iningo ya 61: Iherezo ry'umutungo wanyazwe.

Leta y'u Rwanda ifite ububasha bwo gukoresha uko ishaka umutungo wanyagiwe ku butaka bwayo bisabwe n'ikindi gihugu, keretse iyo amasezerano yakoranywe n'ighugu kibisaba abiteganya ukundi.

Iningo ya 62: Isaba ryo kohererezanya abakurikiranyweho ibyaha

Isaba ryerekeye kwohererezanya abakurikiranyweho ibyaha kugira ngo bajye kuburanira mu kindi gihugu, rikorwa ku byaha bitemanywa mu ngingo z'iri tegeko cyangwa kugira ngo hubahirizwe icyemezo cy'urukiko ku bijyanye n'icyo cyaha.

Uburyo n'amahame bitemanywa n'amasezerano ariyo yo guhererekanya abakurikiranyweho icyaha hagati y'ighugu cyabisabye n'u Rwanda birakurikizwa.

Iyo nta masezerano yo kohererezanya abakurikiranyweho ibyaha ahari, kohererezanya abakurikiranyweho ibyaha bikorwa hakurikijwe uburyo n'iyubahirizwa ry'amahame asobanurwa n'amasezerano rusange yo kohererezanya abakurikiranyweho ibyaha yemejwe n'Inteko Rusange

asset.

The competent Court dealing with a request relating to the enforcement of a decision of dispossession pronounced abroad shall examine the facts on which the decision is based and can refuse execution of the request only for one of the reasons enumerated in Article 40 of this Law.

Article 61: Destiny of dispossessed property

The Rwandan State shall have the powers to dispose of dispossessed property on its territory upon request of foreign authorities, unless an agreement concluded with the requesting State provides otherwise.

Article 62: Request for extradition

The requests for extradition of persons sought for purposes of procedure in a foreign State shall be carried out for the offences envisaged under the provisions of this Law or for purposes to enforce a judicial decision related to such an offence.

The procedures and the principles provided for in the treaty of extradition in force between the requesting State and the Republic of Rwanda shall be applied.

In the absence of a treaty of extradition or legislative provisions, the extradition shall be carried out according to the procedure and respecting the principles defined by the standard treaty of extradition adopted by the General Assembly of the United Nations in its Resolution 45/116. However,

bien.

La juridiction compétente saisie d'une demande relative à l'exécution d'une décision de confiscation prononcée à l'étranger examine les faits sur lesquels se fonde la décision et ne peut refuser de faire droit à la demande que pour l'un des motifs énumérés à l'article 40 de la présente loi.

Article 61 : Sort des biens confisqués

L'Etat Rwandais jouit du pouvoir de disposition sur les biens confisqués sur son territoire à la demande d'autorités étrangères, à moins qu'un accord conclu avec l'Etat requérant n'en décide autrement.

Article 62: Demande d'extradition

Les demandes d'extradition des personnes recherchées aux fins de poursuite dans un Etat étranger sont ouvertes pour les infractions prévues par la présente loi ou aux fins de l'exécution d'une décision judiciaire relative à une telle infraction.

Les procédures et les principes prévus par le traité d'extradition en vigueur entre l'Etat requérant et la République du Rwanda sont applicables.

En l'absence de traité d'extradition ou de dispositions législatives en la matière, l'extradition est exécutée selon la procédure et dans le respect des principes définis par le traité type d'extradition adopté par l'Assemblée Générale des Nations Unies dans sa résolution 45/116. Toutefois, les dispositions de la

y'Umuryango w'Abibumbye mu mwanzuro wayo 45/116. Uko biri kose, ingingo z'iri tegeko ni zo shingiro ryemewe muri gahunda yo kohererezanya abakurikiranyweho ibyaha.

Iningo ya 63: Icyaha cyemeranywaho n'ibihugu byombi

Hakurikijwe ibyo iri tegeko riteganya, kohererezanya abakurikiranyweho ibyaha bikorwa gusa igithe icyaha cyatumye haba iryo hererekanya cyangwa ikindi cyaha bisa na cyo giteganywa mu mategeko ya Repubulika y'u Rwanda.

Iningo ya 64: Impamvu zitegetswe zo kwanga kohererezanya abakurikiranyweho ibyaha

Gusaba kohereza ukurikiranyweho icyaha mu kindi gihugu ntibyemerwa iyo:

- 1° hari impamvu zikomeye zituma hakekwa ko azakurikiranwa cyangwa agahanwa kubera ubwoko bwe, idini rye, ubwenegihugu bwe, inkomoko ye, ibitekerezo bya politiki bye, igitsina cye cyangwa imimerere ye, cyangwa se ko ashobora kugirirwa nabi kubera imwe muri izo mpamvu;
- 2° hari urubanza rwabaye ntakuka muri Repubulika y'u Rwanda ku byerekeranye ukurikiranyweho icyaha;
- 3° umuntu ikindi gihugu gisaba atagishobora

the provisions of this Law shall form a legal basis for the procedures of extradition.

Article 63: Dual incrimination

Under the terms of this Law, the extradition shall be carried out only when the offence giving rise to extradition or a similar offence is envisaged both in the legislation of the requesting State and Republic of Rwanda.

Article 64: Compulsory grounds for refusing extradition

Request for extradition of the accused shall not be granted if:

- 1° there are serious reasons to believe that the request for extradition was presented with a view to suing or punishing a person due to his/her race, religion, nationality, ethnic origins, political opinions, sex ou status, or that this situation of such a person may be endangered for one of these reasons;
- 2° a final judgement was pronounced in the Republic of Rwanda for the offence in respect of which the extradition is being sought;
- 3° the person whose extradition is being sought

présente loi, formeront la base juridique pour les procédures d'extradition.

Article 63: Double incrimination

Conformément aux dispositions de la présente loi, l'extradition des suspects n'a lieu que lorsque l'infraction entraînant l'extradition ou une infraction similaire est reconnue par la législation de la République du Rwanda.

Article 64: Motifs obligatoires de rejet d'extradition

La demande d'extradition d'un prévenu ne peut pas être acceptée si :

- 1° il existe de sérieux motifs de croire extradition a été demandée en vue de poursuivre ou de punir une personne en raison de sa race, de sa religion, de sa nationalité, de son origine ethnique, de ses opinions politiques, de son sexe ou de son statut, ou qu'il pourrait en résulter une atteinte à cette personne pour l'un de ces motifs;
- 2° un jugement coulé en force de chose jugée a été prononcé en République du Rwanda à raison de l'infraction pour laquelle l'extradition est demandée ;
- 3° la personne dont l'extradition est demandée ne

gukurikiranwa cyangwa guhanwa kubera amategeko ya kimwe mu bihugu usabwa kugarurwa mu gihugu yakoreyemo icyaha aherereyemo atemera kumukurikirana cyangwa kumuhana kubera ubuzime bw'ikurikiranacyaha, imbabazi zitangwa n'itegeko cyangwa izindi mpamvu;

4° usabirwa gusubizwa mu kindi gihugu yakorerwa iyica rubozo cyangwa agakorerwa ibindi bikorwa bya kinyamaswa bimutesha agaciro;

5° usabirwa koherezwa atahawe cyangwa adashobora guhabwa uburenganzira bw'ibanzo bw'agateganyo n'imiburashirize y'imanza z'insinjabyaha nk'uko biteganywa mu ngingo ya 14 y'amasezerano mpuzamahanga yerekanye n'amategeko mbonezamubano na politiki.

Ntabwo Igihugu gishobora kwanga koherezwa umuntu ukurikiranyweho icyaha mu kindi gihugu kubera impamvu zirebana n'ibibazo by'imisoro.

Uko byagenda kose, nta na rimwe ihererekanya ry'umunyarwanda rishobora kwemerwa.

Iningo ya 65: Impamvu zidategetswe zo kwanga ihererekanya

Iyoherezwa ry'ukurikiranyweho icyaha rishobora kwangwa iyo:

1° abayobozi ba Repubulika y'u Rwanda bemeje kudakurikirana umuntu uregwa icyaha runaka

can no longer, due to the legislation of one or the other of these countries in which the person to be extradited committed an offence is located, be sued or punished due to the elapsed time or an amnesty or any other reason;

4° the person whose extradition is being sought has been or would be subjected to torture and other cruel, inhuman and degrading treatments;

5° the person whose extradition is being sought has not received or would not receive the minimum guarantees in criminal proceedings as contained in Article 14 of the International Convention on Civil and Political Rights;

The extradition may not be refused for the simple reason that the offence is considered as relating to fiscal issues.

In any case, extradition of a Rwandan citizen shall not be granted.

Article 65: Optional grounds for refusing extradition

Extradition may be refused if :

1° the authorities of the Republic of Rwanda have decided not to proceed with charges against the

peut plus, en vertu de la législation de l'un ou l'autre des pays dans lequel la personne concernée se trouve, être poursuivi ou puni, en raison du temps qui s'est écoulé ou d'une amnistie ou de toute autre raison ;

4° la personne dont l'extradition est demandée a été ou serait soumis dans l'Etat requérant à des tortures et autres peines ou traitements cruels, inhumains ou dégradants ;

5° la personne dont l'extradition est demandée n'a pas bénéficié ou pourrait ne pas bénéficier de garanties minimales prévues lors des procédures pénales, par l'article 14 du Pacte international relatif aux droits civils et politiques.

L'extradition ne peut être refusée au seul motif que l'infraction est considérée comme portant sur des questions fiscales.

En tout état de cause, l'extradition d'un citoyen rwandais ne peut être accordée.

Article 65 : Motifs facultatifs de refus d'extradition

L'extradition pourra être refusée si:

1° les autorités de la République du Rwanda décident de ne pas poursuivre l'infraction en

gisabirwa ihererekanya cyangwa kureka gukurikirana uwo muntu;

2° ikerikanacyaha rirebana n'icyaha cyatumye hasabwa ihererekanya rigikomeza muri Repubulika y'u Rwanda;

3° icyaha gisabirwa iyoherewa ryakorewe hanze y'ubutaka bw'ibihugu byombi kandi, hakurikijwe amategeko ya Repubulika y'u Rwanda, inkiko z'u Rwanda zidafitiye ubushobozi ku byerekeranye n'ibyaha byakorewe hanze y'ubutaka bw'u Rwanda, harebwe impamvu;

4° uwasabiwe koherezwa yaburanishijwe, yagize ikibazo gituma ataburana cyangwa yarahamijwe icyaha n'urukiko rwihariye rwa Leta ibisaba;

5° Repubulika y'u Rwanda, igihe yiga imiterere y'icyaha n'inyungu z'igihugu gisaba ihererekanya, ibona ko, bitewe n'impamvu z'ikibazo, iyoherewa ry'ukurikiranyweho icyaha ryaba ritajyanye n'iyubahiriza ry'ikiremwamuntu, bitewe n'imyaka ye, ubuzima bwe cyangwa izindi mpamvu bwite z'ubo muntu;

6° icyaha gisabirwa iyoherewa ry'ukurikiranyweho icyaha gifatwa n'amategeko ya Repubulika y'u Rwanda nk'aho cyakorewe ku gace cyangwa ku

person concerned for the particular offence for which the extradition is requested or to put an end to the proceedings instituted against the aforementioned person;

2° proceedings for the offence related to the requested extradition are pending in the Republic of Rwanda;

3° the offence for which the extradition is requested has been committed outside the territory of either country and for which, according to the legislation of the Republic of Rwanda, the Rwandan jurisdictions are not competent with regard to the offences committed outside its territory in comparable circumstances;

4° the person whose extradition is requested has been judged, had an incident that led him/her not be tried or risked to be judged or convicted in the requesting State by a special jurisdiction;

5° the Republic of Rwanda, while taking into account the nature of the offence and the interests of the State requesting for extradition, considers that, given the circumstances of the matter, the extradition of the concerned person would be incompatible with the respect of human rights, taking into account the age, the state of health or other personal circumstances of the aforesaid person;

6° the offence for which the extradition is requested is considered by the legislation of the Republic of Rwanda as committed in all or partly on its

raison de laquelle l'extradition est demandée ou décidée de ne pas poursuivre le suspect;

2° des poursuites en raison de l'infraction en raison de laquelle l'extradition est demandée sont en cours en République du Rwanda;

3° l'infraction en raison de laquelle elle est demandée a été commise hors du territoire des deux Etats et si la législation de la république du Rwanda n'autorise pas la poursuite d'infractions de même nature lorsqu'elles sont commises hors de son territoire ;

4° la personne réclamée a fait l'objet de jugement, a eu un problème l'empêchant d'être jugée ou a été déclarée coupable par un tribunal spécial de l'Etat requérant;

5° lors de l'examen de la nature de l'infraction et des intérêts du pays requérant, la République du Rwanda constate que compte tenu de la situation l'extradition porterait atteinte aux droits de la personne humaine pour des raisons de son âge, de sa santé ou d'autres raisons personnelles de la personne réclamée;

6° la législation rwandaise considère l'infraction en raison de laquelle l'extradition est demandée comme une infraction commise sur une partie ou

butaka bwayo bwose;

7° hasabwe iyoherezwa ry'ukurikiranyweho icyaha kugira ngo hashyirwe mu bikorwa icyemezo cya nyuma urukiko rwafatiye umuntu adahari, atarashoboye kwiregura kubera impamvu zitamuturutseho.

Iningo ya 66: Gukurikirana umuntu wangiwe ihererekanya

Mu gihe Repubulika y'u Rwanda yanze kohereza ukurikiranyweho icyaha ku mpamvu ziteganywa n'ingingo ya 64 agace ka 3° n'aka 4° n'ya 65 z'iri tegeko, ishyikiriza ikirego Urukiko rubifitiye ububasha kugira ngo uwo mutu akurikiranwe.

Iningo ya 67: Isubiza ry'umutungo

Bitabangamiye ibiteganywa n'amategeko n'uburenganzira bw'abandi, umutungo wose ugaragara ku butaka bwa Repubulika y'u Rwanda ukomotse ku cyaha cyakozwe cyangwa wakwaho ibimenyetso, usubizwa Leta iwasuba iyo iyoherezwa ry'ukurikiranyweho icyaha ryemewe.

Bisabwe na Leta isaba, uwo mutungo ushobora gusubizwa iyo Leta n'ubwo ihererekanya ry'ukurikiranyweho icyaha ridashobora gushyirwa mu bikorwa.

Igihe cyose uwo mutungo ushobora gufatirirwa cyangwa kunyagirwa ku butaka bwa Repubulika y'u

entire territory;

7° the extradition is requested in execution of a final judgment issued in the absence of the person concerned, who has not been able to ensure his/her defense for reasons beyond his/her will.

Article 66: Aut dedere aut judicare

When the Republic of Rwanda refuses the extradition for a reason mentioned in Article 64, sub paragraphs 3° and 4° of Paragraph One and Article 38 of this Law, it shall refer the matter to the competent Court so that the person concerned shall be prosecuted.

Article 67: Restitution of property

Without prejudice to provisions of the law and rights of third parties, all assets found on the territory of the Republic of Rwanda acquired as a result of the offence committed or that may be required as elements of evidence shall be returned to the requesting State, upon request of the requesting State and if the extradition is granted.

Upon request of the requesting State, the assets set forth in paragraph One this Article may be returned to this State even if the granted extradition cannot be carried out.

Whenever the aforementioned assets shall be susceptible of seizure or dispossession on the

l'ensemble de son territoire;

7° en cas de demande d'extradition, la condamnation définitive de la personne jugée par défaut ou par contumace, la personne recherchée n'a pas pu se défendre pour des raisons indépendantes de sa volonté.

Article 66: Aut dedere aut judicare

Lorsque la République du Rwanda refuse l'extradition de la personne réclamée pour des motifs prévus par l'article 64 en ses points 3° et 4° de son alinéa 1 et par l'article 65 de la présente loi, elle introduit l'action devant la juridiction compétente pour que ladite personne soit poursuivie.

Article 67 : Restitution du patrimoine

Sans préjudice des dispositions légales et des droits des tiers, tout le patrimoine issu de la commission de l'infraction ou dont on exige des preuves trouvé sur le territoire de la République du Rwanda est restitué à l'Etat requérant si l'extradition est accordée.

A la demande de l'Etat requérant, ce patrimoine peut être restitué même dans les cas où l'extradition n'est pas accordée.

Chaque fois que ce patrimoine peut être confisqué ou dépossédé sur le territoire de la République du

Rwanda, Leta ishobora kuwugumana by'agateganyo cyangwa ikawusubiza.

Bisabwe na Repubulika y'u Rwanda, igihe cyose amategeko abiteganya kandi hubahirijwe uburenganzira bw'abandi bantu, umutungo wasubijwe ugarurwa mu Rwanda ku buntu, iyo ikurikiranacyaha ryarangiyе.

UMUTWE WA V: INGINGO RUSANGE ZEREKERANYE NO GUSABA UBUFATANYE N'IHEREREKANYA RY'ABANYABYAHА

Iningo ya 68: Kohereza isaba

Isaba rikozwe n'ubuyobozi bwo mu kindi gihugu bubifitiye ububasha ku mpamvu zo kugaragaza ikorwa ry'icyaha cy'iterabwoba, ku mpamvu zo gushyiraho ibyemezo bishingana by'agateganyo cyangwa ubunyage cyangwa ku mpamvu zo kohererezanya abakurikiranyweho ibyaha rinyuzwa mu nzego z'ubutwererane. Mu gihe byihutirwa, isaba rishobora kunyuzwa muri INTERPOL cyangwa mu buryo butaziguye, ubuyobozi bwo mu bindi bihugu bukaryoherereza abacamanza ba Repubulika y'u Rwanda binyujije mu butumwa bwanditse cyangwa indi nzira iyo ari yo yose yihuta, hagasigara kopi cyangwa ikindi kintu gihwanyije agaciro na kopi. Iyo isaba ridakurikije ibyemejwe n'inzego z'ubutwererane, ntirihabwa agaciro.

Inyandiko zisaba n'imigereka yazo biherekezwa n'inyandiko zihinduwe muri rumwe mu ndimi

territory of the Republic of Rwanda, the State shall be able to maintain temporarily or return them.

Upon request by the Republic of Rwanda and at any time the legislation of the Republic of Rwanda so provides, and in respect of the rights of third parties, the returned assets shall be brought back to the Republic of Rwanda free of charge, if prosecution is finalised.

CHAPTER V: GENERAL PROVISIONS RELATING TO REQUEST FOR COOPERATION AND EXTRADITION

Article 68: Transmission of request

Requests addressed by foreign competent authorities for purposes of establishing the perpetration of an offence of terrorism, pronouncing provisional protective measures or a dispossession or for purposes of extradition shall be transmitted through diplomatic channels. In urgent cases, they may be communicated through INTERPOL or directly by the foreign authorities to the judicial authorities of the Republic of Rwanda, either by mail, or by any other faster means of transmission, leaving a hard copy or equivalent material. The request shall only be considered if cooperation requirements are fully met

The requests and their annexes shall be accompanied by a translation in one of the official languages of the Republic of Rwanda.

Rwanda, l'Etat peut le conserver provisoirement ou le restituer.

A la demande de la République du Rwanda et dans le respect des lois et des droits des tiers, le patrimoine restitué est retourné sans frais au Rwanda en cas de clôture définitive de la poursuite.

CHAPITRE V: DISPOSITIONS GENERALES RELATIVES A LA DEMANDE DE COOPERATION ET A LA PROCEDURE D'EXTRADITION

Article 68: Transmission de la demande

Les demandes formulées par des autorités compétentes étrangères aux fins d'établir des faits constitutifs de terrorisme, en vue de prononcer des mesures conservatoires ou une confiscation ou aux fins d'extradition sont transmises par la voie diplomatique. En cas d'urgence, elles peuvent faire l'objet d'une communication par INTERPOL ou de communications directes par les autorités étrangères aux autorités judiciaires de la République du Rwanda, soit par la poste, soit par tout autre moyen de transmission plus rapide, laissant une trace écrite ou matériellement équivalente. La demande n'est considérée que si elle répond aux exigences en matière de coopération.

Les demandes et leurs annexes doivent être accompagnées d'une traduction dans une des langues officielles de la République du Rwanda.

zikoreshwa mu butegetsi muri repubulika y'u Rwanda.

Ingingo ya 69: Ibikubiye mu nyandiko zisaba

Isaba rigomba kugaragaza neza:

- 1° ubuyobozi busaba;
- 2° ubuyobozi busabwa;
- 3° igisabwa n'ibindi byose byashingirwaho mu kugaragaza urwego kirimo;
- 4° ibimenyetso bisobanura igisabwa;
- 5° ibantu byose bizwi byafasha kumenya umwirondoro w'abantu bireba by'umwihariko, irangamimerere, ubwenegihugu, aho babarizwa n'icyo bakora;
- 6° amakuru yose y'ingenzi yafasha kumenya no kuranga aho umuntu aba, ibikoresho, imitungo irebwa;
- 7° inyandiko y'amategeko agaragaza icyaha, cyangwa iyo bikenewe, inyandiko ikubiyemo amategeko yerekeranye n'icyo cyaha, no kwerekana ibihano byahanishijwe icyo cyaha;
- 8° inyandiko isobanura ubufatanye busabwa n'ibisobanuro birambuye by'uburyo igihugu gisaba cyifusa ko bukoreshw.

Article 69: Contents of extradition request forms

The requests shall specify:

- 1° the authority requesting for the measure;
- 2° the required authority;
- 3° the subject of the request and any relevant remark on its context;
- 4° the facts justifying the request;
- 5° all known elements likely to facilitate the identification of the persons concerned and in particular the civil status, the nationality, the address and the profession;
- 6° all necessary information to identify and locate the person, instruments, resources or property concerned;
- 7° the text of the legal provision instituting the offence or, if needed, a report of the law applicable to the offence, and the indication of the sentence incurred for the offence;
- 8° a description of the required assistance and the detail of any particular procedure that the requesting State wishes to see applied.

Article 69: Contenu des demandes d'extradition

Les demandes doivent préciser:

- 1° l'autorité qui sollicite la mesure;
- 2° l'autorité requise;
- 3° l'objet de la demande et toute remarque pertinente sur son contexte;
- 4° les faits justifiant la demande;
- 5° tous éléments connus susceptibles de faciliter l'identification des personnes concernées et notamment l'état civil, la nationalité, l'adresse et la profession;
- 6° tous renseignements nécessaires pour identifier et localiser la personne, les objets, les ressources ou les biens visés;
- 7° les références légales de l'infraction ou, le cas échéant, un exposé du droit applicable à l'infraction, et l'indication de la peine encourue pour l'infraction;
- 8° une description de l'assistance requise et les détails de la procédure particulière que l'Etat requérant souhaite voir appliquée.

Byongeye kandi isaba riba rikubiyemo ibi bikurikira mu bihe byihariye :

- 1° iyo hasabwa ibyemezo bishingana by'agateganyo, ibisobanuro kuri ibyo byyemezo;
- 2° iyo hasabwa gufatwa icyemezo cy'ubunyage, raporo y'ibimenyetso bya ngombwa n'ibitekerezo bituma abacamanza bafata icyo cyemezo hakurikijwe ingingo z'amategeko y'igihugu;
- 3° iyo hasabwa iyubahirizwa ry'icyemezo gishingana by'agateganyo cyangwa cy'ubunyage, inyandiko igaragaza ibi bikurikira:
 - a. kopi iriho umukono wa noteri ijyanye n'icyo cyemezo hamwe n'impamvu, iyo kopi itazivuze;
 - b. icyemezo cyashingiweho bubahiriza uwo mwanzuro kandi kidashobora guhindurwa mu buryo busanzwe;
 - c. aho ishyirwa mu bikorwa ry'icyemezo ritarenga byaba ngombwa umubare w'amafaranga asabwa kuri uwo mutungo;
 - d. iyo byakorwa kandi bishoboka, ibisobanuro byose bijyanye n'amategeko undi muntu ashobora gusaba ku bikoresho, ku mitungo

The request shall also contain the following elements in some particular cases:

- 1° in the case of a request for a protective measure, a description of the protective order requested;
- 2° in case of a request for a decision for confiscation, a report of the relevant facts and arguments allowing the judicial authorities to pronounce the confiscation, according to the provisions of national law;
- 3° In case of a request for enforcement of a decision of a provisional protective measure or of confiscation, the requests shall be further accompanied by:
 - a. a certified true copy of the decision setting out such grounds and, if it does not state them, an explanatory note of such a decision;
 - b. a certificate according to which the decision is enforceable and not subject to ordinary means of redress;
 - c. the indication of the limits within which the decision shall be carried out and, where appropriate, the amount of money to reclaim for the asset(s);
 - d. if applicable and if possible, all indications related to the rights that third parties can demand on the instruments, resources, property or other.

En outre, les demandes doivent contenir les éléments suivants dans certains cas particuliers :

- 1° un descriptif de mesures conservatoires en cas de demande de telles mesures ;
- 2° un exposé des faits et arguments pertinents devant permettre, en vertu du droit interne, aux autorités judiciaires de prononcer la confiscation, en cas de demande d'une décision de confiscation.
- 3° La demande d'exécution d'une décision de mesures conservatoires ou de confiscation contient en outre :
 - a. une copie certifiée conforme à la décision énonçant ses motifs et, si elle ne les énonce pas, elle énonce l'exposé de ses motifs;
 - b. une attestation selon laquelle la décision est exécutoire et n'est pas susceptible de recours ordinaires;
 - c. l'indication des limites dans lesquelles la décision doit être exécutée et, le cas échéant, du montant de la somme à récupérer sur le ou les biens;
 - d. s'il y a lieu et si possible, toutes les indications relatives aux droits que des tiers peuvent revendiquer sur les instruments, ressources, biens ou autres

cyangwa ibindi.

4° Iyo hasabwa iyoherezwa ry'umuntu warahamwe n'icyaha, isaba riherekezwa n'umwanzuro w'urubanza cyangwa kopi yavo iriho umukono wa noteri uhamya ko uwo muntu yahamijwe icyaha kandi ikerekana igihano yahawe, kuba umwanzuro w'urubanza ugomba kurangizwa cyangwa se ibihano bitarangijwe.

Iningo ya 70: Isesengura ry'isaba

Minisiteri ifite ubutabera mu nshingano zayo, imaze gusuzuma ko isaba ryemewe, iryoherereza Ubushinjacyaha Bukuru bw'aho iperereza rizakorerwa cyangwa bw'aho usabirwa koherezwa atuye.

Ubushinjacyaha Bukuru bwiyambaza abakozi ba Leta babifitiye ububasha ngo bakore iperereza kuri iryo saba, bukiyambaza n'urukiko rubifitiye ububasha ku byerekeye isaba rijyanye n'ibyemezo bishingana by'agateganyo, inyaga n'iyoherezwa ry'abakurikiranyweho icyaha.

Umucamanza cyangwa umukozi wa Leta woherejwe n'ubuyobozi bwo mu kindi gihu gubishinzwe, ashobora gukurikirana iyubahirizwa n'ishyirwa mu bikorwa ry'ibyemezo hakurikijwe ko bikorwa n'Umucamanza, Umushinjacyaha cyangwa umukozi wa Leta ubifitiye ububasha.

4° In the case of a request for extradition of a person declared guilty of an offence, the request shall be accompanied with the judgment or a certified copy conform to the judgment proving that the concerned person has been recognized guilty and indicative of the sentence pronounced, the fact that the judgment is enforceable or the extent to which the sentence has not been carried out.

Article 70: Analysis of the extradition request

The Ministry in charge of justice, after having verified the legitimacy of the request, shall submit it to the National Public Prosecution Authority of the location where the investigations shall be carried out or where the person whose extradition is requested is located.

The National Public Prosecution Authority shall refer to the competent civil servants for the requests for investigation and the competent Court with regard to the requests related to protective orders, confiscations and extradition.

A judge or a civil servant delegated by the competent requesting State can attend the enforcement of the protective measures depending on whether they are executed by a judge, a prosecutor or an authorized civil servant.

choses visés.

En cas de demande d'extradition d'une personne reconnue coupable d'une infraction, les demandes sont accompagnées du jugement ou de la copie certifiée conforme du jugement établissant la culpabilité de l'intéressé et indiquant la peine prononcée, le fait que le jugement est exécutoire et la mesure dans laquelle la peine n'a pas été exécutée.

Article 70 : Traitement des demandes.

Le Ministère ayant la justice dans ses attributions, après vérification de la régularité de la demande, transmet ladite demande à l'Organe National de Poursuite judiciaire du lieu où les investigations doivent être menées ou du lieu où se trouve la personne dont l'extradition est demandée.

L'Organe National de Poursuite Judiciaires saisit les fonctionnaires compétents des demandes d'investigation et la juridiction compétente en ce qui concerne les demandes relatives aux mesures conservatoires, aux confiscations et à l'extradition.

Un magistrat ou un fonctionnaire délégué par l'autorité compétente de l'Etat requérant peut assister à l'exécution des mesures selon qu'elles sont effectuées par un magistrat, un procureur ou par un fonctionnaire habilité.

Iningo ya 71: Amakuru y'innyongera

Minisiteri ifite ubutabera mu nshingano zayo cyangwa Ubushinjacyaha Bukuru bwashyikirijwe ikibazo, igihe bagikurikirana, babyibwirije cyangwa babisabwe n'urukiko rubifitiye ububasha, bashobora gusaba, binyuze mu nzego z'ubutwererane cyangwa ku buryo butaziguye, ubuyobozi bubifitiye ububasha bwo mu kindi gihugu gutanga amakuru y'innyongera ya ngombwa ngo isaba rikorwe neza cyangwa iyubahirizwa ryayo ryoroshywe.

Iningo ya 72: Gusaba ko haba ibanga

Igihe hari igihugu cyifuje ko isaba ryacyo rigirwa ibanga, biremerwa. Iyo bidashoboka, Igihugu cyabisabye kibimenyeshwa mu buryo bwihutirwa.

Iningo ya 73: Kudakoresha ibimenyetso mu zindi gahunda

Gukoresha ibimenyetso byatanzwe mu iperereza cyangwa mu miburanishirize itandukanye n'iyateganijwe mu isaba ryaturutse mu kindi gihugu birabujije, kubikora byatuma iryo perereza n'ijo miburanishirize biba imfabusa, keretse byemejwe na Leta y'Igihugu cyatanze ibyo bimenyetso.

Iningo ya 74: Kwishyura imirimo yakozwe

Amafaranga ajyanye n'ishyira mu bikorwa ry'isaba rivugwa muri uyu Mutwe, yishyurwa na Leta yabisabye, kerekwa byumvikanyweho ukundi.

Article 71: Additional information

The Minister in charge of justice or the National Public Prosecution Authority to which the matter has been addressed, dealing with the case, either on own initiative or upon request of the competent Court, may solicit, through diplomatic channels or directly, the foreign competent authority for purposes to providing all additional information necessary to carry out the request or facilitate its enforcement.

Article 72: Request for confidentiality

When the requesting State asks that the existence and the contents of its request be kept confidential, this must be done. If it is impossible, the requesting authority shall be informed without delay.

Article 73: Prohibition of using pieces of evidences for other purposes

For investigations or procedures other than those provided for by the foreign State request, the use of the elements of evidence is prohibited and may lead to nullity of the said investigations and procedures, unless there is a prior consent of the foreign Government.

Article 74: Payment for activities performed

Costs computed for the execution of the requests under this Chapter are borne by the requesting State unless it is agreed otherwise.

Article 71 : Compléments d'informations

Le Ministère ayant la justice dans ses attributions ou l'Organe National de Poursuite Judiciaire saisi, soit de son initiative, soit à la demande de la juridiction compétente, peut solliciter, par la voie diplomatique ou directement, l'autorité compétente étrangère aux fins de fournir toutes les informations complémentaires nécessaires pour exécuter la demande ou pour en faciliter l'exécution.

Article 72: Demande de confidentialité

Lorsque l'Etat requérant demande que l'existence et la teneur de sa requête soient tenues confidentielles, il y est fait droit. En cas d'impossibilité, l'Etat requérant en est informé sans délai.

Article 73: Interdiction d'utilisation des éléments de preuve à d'autres fins

L'utilisation dans des enquêtes ou des procédures autres que celles prévues dans la demande d'un Etat étranger des éléments de preuve que celle-ci contient est interdite sous peine de nullité desdites enquêtes et procédures, sauf consentement préalable de l'Etat étranger.

Article 74: Remboursement des frais des services rendus

Les frais exposés pour exécuter les demandes prévues au présent chapitre sont à la charge de l'Etat requérant à moins qu'il en soit convenu autrement.

UMUTWE WA VI : IBIHANO

Ingingo ya 75: Uruhare mu bikorwa by'ishyirahamwe rikora iterabwoba

Umuntu wese yaba gatozi cyangwa icyitso ujya cyangwa ugira uruhare abizi mu bikorwa by'ishyirahamwe rikora iterabwoba cyangwa se rikora ikintu cyose cyongerera ubushoboz ihyirahamwe ryose rikora iterabwoba bigamije gufasha cyangwa gukora igikorwa cy'iterabwoba ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

Ingingo ya 76: Ubufatanyacyaha mu gikorwa cy'iterabwoba

Umuntu wese ufasha abizi mu gikorwa cy'iterabwoba ahanishwa igihano iri tegeko rihanisha uwakoze icyo cyaha.

Ingingo ya 77: Iterabwoba riyobowe n'agatsiko k'iterabwoba

Umuntu wese ukora icyaha giteganyijwe n'iri tegeko ayobowe cyangwa afatanyije n'agatsiko k'iterabwoba cyangwa mu nyungu zako, ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

Iyo ari umuyoboz w'agatsiko cyangwa undi wese wagize uruhare runini ahanishwa igihano cyo gufungwa burundi.

CHAPTER VI: PENALTIES

Article 75: Participating in the acts of a terrorism association

Any person whether a principal author or an accomplice who joins or deliberately participates in the acts of a terrorism association or one which operates in building capacities of any association that conducts terrorist acts shall be liable to an imprisonment of twenty (20) to thirty five (35) years.

Article 76: Complicity in a terrorist act

Any person who deliberately assists in a terrorist act shall be punished by a sentence this Law imposes on a person who commits such an offence.

Article 77: Terrorism under the command of a terrorist group

Any person who commits an offence provided for by this Law by order or in collaboration with a terrorist association or in its interests shall be liable to an imprisonment between twenty (20) and thirty five (35) years.

Where the offence involves a leader of the group or any other person who played a significant role, it shall be punished by life imprisonment.

CHAPITRE VI : DES PEINES

Article 75: Participation dans des actes d'une association terroriste

Quiconque participe ou contribue comme auteur principal ou en qualité de complice dans des actes d'une association terroriste ou de toute autre visant le renforcement des capacités d'une association terroriste dans l'objectif d'aider ou de participer à la commission d'un acte de terrorisme est passible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

Article 76: Complicité dans un acte de terrorisme

Quiconque porte délibérément assistance à la commission d'un acte de terrorisme est passible d'une peine prévue par la présente loi pour l'auteur de l'infraction.

Article 77: Terrorisme sur les ordres d'un groupe terroriste

Quiconque commet une infraction prévue par la présente loi sur les ordres ou en collaboration avec un groupe terroriste ou dans son intérêt, est passible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

Lorsque commission de l'infraction implique un chef du groupe ou une autre personne ayant joué un grand rôle, l'infraction est punissable d'une peine d'emprisonnement à perpétuité.

Iningo ya 78: Gutanga amabwiriza mu gikorwa cy'icyaha cy'iterabwoba

Umuntu wese uha undi uwo ari we wese abizi, mu buryo butaziguye cyangwa buziguye, amabwiriza yo gukora ayobowe cyangwa afatanyije n'agatsiko k'iterabwoba, ku mpamvu zo kongerera ubushobozzi agatsiko k'iterabwoba cyangwa mu nyungu zabo hagamijwe gufasha cyangwa gukora igikorwa cy'iterabwoba, ahanishwa igifungo cya burundi.

Iningo ya 79: Guhisha uwakoze iterabwoba

Umuntu wese uhisha umuntu azi ko yakoze cyangwa yagombaga gukora igikorwa cy'iterabwoba, ahanishwa igifungo cya burundi.

Iningo ya 80: Kuba mu ishyirahamwe ry'iterabwoba

Umuntu wese uri cyangwa wemera kuba mu ishyirahamwe rikora iterabwoba, ahanishwa igihano cy'igifungo kuva ku myaka cumi n'itanu (15) kugeza kuri makumyabiri (20).

Iningo ya 81: Kuyobya indege

Azahanishwa igihano cy'igifungo cya burundi umuntu wese uzaba yakoreshheje ingufu agamije gukanga, gufata ubuyobozi bw'indege cyangwa akoreshheje ubwo buyobozi bw'indege kugera kuri bimwe mu bikorwa bikurikira:

Article 78: Giving directives in an act of terrorism

Any person who knowingly gives orders to another, directly or indirectly, to commit a terrorist act under directives or in collaboration with a group of terrorists, for the reasons of supporting a group of terrorists in order to aid or commit an act of terrorism, shall be liable to a life imprisonment.

Article 79: Harbouuring a terrorist

Any person who harbours another person knowing that he/she has committed or attempted to commit a terrorist act shall be sentenced by a life imprisonment.

Article 80: Membership in a terrorist organization

Any person who joins or admits to be member in a terrorist organization shall be liable to an imprisonment from fifteen (15) to twenty (20) years

Article 81: Hijacking of an aircraft

Any person using of force, with an intention to intimidate, capture the crew of an aircraft or using the crew of the aircraft with the purpose of achieving one of the following acts shall be liable to a life imprisonment:

Article 78: Donner des instructions dans un acte terroriste

Quiconque donne volontairement, directement ou indirectement, à une autre personne des instructions de travailler sur les ordres ou en collaboration avec un groupe terroriste, pour des raisons de renforcer les capacités du groupe terroriste ou dans leurs intérêts dans l'objectif d'aider ou de participer à la commission d'un acte de terrorisme, est possible d'une peine d'emprisonnement à perpétuité.

Article 79 : Recel du terroriste

Quiconque fournit un refuge à une personne sachant qu'elle a commis ou qu'elle devait commettre un acte de terrorisme, est possible d'une peine d'emprisonnement à perpétuité.

Article 80 : Etre membre d'une organisation terroriste.

Quiconque est ou accepte d'être membre d'une organisation terroriste, est possible d'une peine d'emprisonnement de quinze (15) à vingt (20) ans.

Article 81: Détournement d'un aéronef

Est possible d'une peine d'emprisonnement à perpétuité quiconque use de la force dans l'intention d'intimider, de s'emparer de l'équipage d'un aéronef ou se sert de cette équipage dans le but de commettre l'un des actes suivants :

- 1° kwica cyangwa gukomeretsa uri mu ndege;
- 2° kujyana umuntu uwo ari we wese mu ndege atabishaka ahantu hose hatari aho indege iteganya kujya;
- 3° gufata umuntu uwariwe wese uri mu ndege ugamije indonke cyangwa kumukoresha umurimo adashaka ;
- 4° gutuma indege ihindura inzira yayo;
- 5° kwangiza indege;
- 6° guhungabanya umutekano w'abari mu ndege.

Iningo ya 82: Guhungabanya umutekano ku kibuga cy'indege

Azahanishwa igihano cya burundi, umuntu wese ukoresha imbaraga cyangwa ukangisha gukoresha imbaraga ku kibuga cy'indege iyo ibyo bikorwa by'iterabwoba bivuyemo:

- 1° kwica umuntu cyangwa kumukomeretsa ;
- 2° gusenya cyangwa kwangiza inyubako z'ikibuga cy'Indege mpuzamahanga ;
- 3° guhagarika imirimo imwe n'imwe ishobora kugira ingaruka mbi ku migendekere myiza y'ikibuga ;

- 1° killing or injuring a person aboard the aircraft;
- 2° transporting any person aboard the aircraft without his/her consent to a place other than the scheduled destination of aircraft;
- 3° abducting a person in the aircraft for an illicit gain or forced labor;
- 4° changing the aircraft's direction;
- 5° demolishing the aircraft;
- 6° causing insecurity of all on board the aircraft.

Article 82: Destabilizing security at the airport

Any person using of force or threatens to use force at the airport in case such terrorist acts result into the following shall be liable to a life imprisonment:

- 1° death or injury to a person;
- 2° demolishing or destructing buildings of international airports;
- 3° stopping certain activities which may have negative consequences on the performance of the airport;

- 1° tuer ou blesser une personne à bord;
- 2° amener une personne à bord d'un aéronef à emprunter contre son gré la direction d'un endroit quelconque autre que la destination initiale de l'avion;
- 3° se saisir d'une personne se trouvant à bord pour avoir une rançon ou obtenir de lui une prestation contre son gré ;
- 4° dévier un aéronef de son itinéraire;
- 5° endommager l'aéronef ;
- 6° porter atteinte à la sécurité de personnes se trouvant à bord.

Article 82 : Atteinte à la sécurité à l'aéroport

Est possible d'une peine d'emprisonnement à perpétuité quiconque use ou menace d'user de la force à l'aéroport lorsque ces actes de terrorisme provoquent:

- 1° la mort ou les blessures d'une personne ;
- 2° la destruction ou détérioration des installations d'un aéroport;
- 3° l'interruption de certaines des activités susceptibles d'entraver les opérations normales de l'aéroport;

4° guhungabanya umutekano w'ikibuga cy'indege n'inyubako.

Ingingo ya 83 : Gukoresha ibintu biturika mu ikoraniro binyuranyije n'amategeko

Azahanishwa igihano cy'igifungo cya burundu umuntu wese utanga, utega, ujugunya cyangwa uturitsa intwaro ziturika cyangwa ikindi kintu gihumanya, mu buryo bunyuranyije n'amategeko kandi yabigambiriye, ahantu hakoreswa na rubanda cyangwa akahabangamira, akangiza inyubako za Leta n'ibindi bikorwa remezo agamije:

1° kwica cyangwa gukomeretsa;

2° kwangiza, gusenya ahantu, inyubako bigatuma iryo senya ritera igihombo gikomeye mu bukungu, mu mutungo w'abaturage cyangwa uwa Leta.

Ingingo ya 84: Gufata bugwate

Umuntu wese ufata bugwate agamije gukoresha ingufu kuri Leta, ku muryango mpuzamahanga cyangwa ku mutegetsi cyangwa undi muntu abashyiraho iterabwoba ryo kwica, gukomeretsa cyangwa gukomeza gufatira iyo ngwate, mu gihe batamuhaye cyangwa badakoze icyo asaba, ahanishwa igihano cy'igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35)

Iyo uwafashwe bugwate bimuviriyemo urupfu, uwamufashe bugwate ahanishwa igifungo cya

4° destabilisation of the security of the airport and its installations.

Article 83: Illegal use of explosives in gatherings

Any person who deliberately gives, ambushes, throws or blasts an explosive or any other noxious substance in a public place, in an illegal manner or who causes disorder in the same place and demolishes government buildings and other infrastructure with an intention to commit the following offences, shall be liable to a life imprisonment:

1° causing death or injury;

2° destroying, demolish a place or a building which may result into a significant economic, private or public property loss.

Article 84: Taking hostage

Any person who takes hostage with intention to use force against the State, international organization or a leader or any other person with a threat to kill, injure or proceed to take hostage in case of failure to give or fulfill the demand by the hijacker shall be liable to an imprisonment of twenty (20) to thirty-five (35) years.

If taking hostage results into death of the person hijacked, the hijacker shall be liable to a life

4° l'atteinte à la sécurité de l'aéroport et de ses installations.

Article 83 : Utilisation illégale des explosifs dans un lieu public

Est possible d'une peine d'emprisonnement à perpétuité quiconque, de façon illicite et prémeditée, donne, pose lance ou détonne les explosifs ou un autre engin toxique, dans un lieu public ou qui trouble l'ordre, endommage les édifices de l'Etat et les autres infrastructures dans l'intention de :

1° donner la mort ou blesser ;

2° endommager, détruire un endroit ou un édifice et ainsi occasionner des pertes graves en économie, en propriétés privées ou publiques.

Article 84: Prise d'otage

Quiconque prend un otage dans l'intention de contraindre l'Etat, une organisation internationale ou une autorité reconnue ou toute autre personne en menaçant de tuer, blesser ou de continuer à détenir l'otage s'ils ne donnent ou n'accomplissent pas ce qu'il demande, est possible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

Lorsque la prise d'otage cause la mort à la victime, l'auteur est possible d'une peine d'emprisonnement à

burundi.

Iningo ya 85: Gukoresha iterabwoba ku badipolomate

Umuntu wese akoresheje iterabwoba, wica cyangwa agashimuta umuntu urinzwe ku rwego mpuzamahanga ahanishwa igifungo cya burundi.

Iningo ya 86: Kugaba ibitero ku bantu barinzwe ku rwego mpuzamahanga

Umuntu wese ugabye igitero cyangwa akabangamira ubwisanzure bw'umudipolomate ahanishwa :

- 1° igihano cy'igifungo cya burundi iyo icyo gitero cyakuruye urupfu;
- 2° igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35) iyo icyo gitero cyateje ibikomere bikabije ku mubiri.

Iningo ya 87: Gusenya inyubako

Umuntu wese usenya cyangwa wonona yabigambiriye mu bundi buryo hadakoreshejwe imbunda cyangwa intwaro ziturika ahanishwa igifungo cya burundi iyo ari :

- 1° inyubako za Leta, iz'abikorera ku giti cyabo cyangwa uburyo bwo gutwara abantu bw'umuntu urinzwe ku rwego mpuzamahanga;

imprisonment

Article 85: Terrorism against internationally protected person

Any person, involved in terrorism, who kills or kidnaps an internationally protected person shall be liable to life imprisonment.

Article 86 : Attacking diplomats

Any person who attacks or violates diplomats shall be liable to:

- 1° a life imprisonment if the attacks resulted into death;
- 2° an imprisonment from twenty (20) to thirty-five (35) years if the attacks caused serious injury.

perpétuité.

Article 85: Terrorisme contre une personne jouissant d'une protection internationale

Quiconque, par terrorisme, tue ou enlève une personne jouissant d'une protection internationale est passible d'une peine d'emprisonnement à perpétuité.

Article 86: Attaques contre les diplomates

Quiconque attaque ou porte atteinte aux diplomates est passible :

- 1° d'une peine d'emprisonnement à perpétuité lorsque l'attaque a causé la mort ;
- 2° d'un emprisonnement de vingt (20) à trente-cinq (35) ans lorsque l'attaque a causé les blessures corporelles graves.

Article 87: Demolishing buildings

Any person who willfully destroys or demolishes in any other way other than guns or bombs shall be liable to life imprisonment in cases of:

- 1° public and private buildings, transportation of internationally protected persons;

Article 87: Destruction des édifices

Quiconque détruit ou endommage volontairement par des moyens autres que les fusils ou les engins explosifs commet une infraction de terrorisme et est passible d'une peine d'emprisonnement à perpétuité lorsqu'il s'agit de :

- 1° un édifice public ou privé ou un moyen de transport des personnes jouissant d'une protection internationale ;

2° izindi nyubako zose zikoreshwa cyangwa zagombye kuba zikoreshwa n'umuntu urinzwe ku rwego mpuzamahanga, cyangwa se umutungo we.

Iningo ya 88: Gukangisha iterabwoba

Umuntu wese ukangisha gukora ikintu gishobora kuvamo icyaha cy'iterabwoba ahanishwa igifungo hagati y'imyaka icumi (10) kugeza kuri makumyabiri (20).

Iyo iryo kangisha ryaviriyemo abantu gupfa, ahanishwa igihano cy'igifungo cya burundi.

Iningo y 89: Kwinjira mu nyubako za Leta, n'iz'abantu barinzwe ku rwego mpuzamahanga hagamijwe iterabwoba

Umuntu wese winjira, ugerageza kwinjira mu nzu cyangwa mu nyubako ikoreshwa cyangwa se ikererwamo ibikorwa bya Leta cyangwa iby'abahagarariye ibihugu byabo, iby'abahagarariye Imiryango Mpuzamahanga, cyangwa ahatuwe n'umuntu urinzwe mu rwego mpuzamahanga, abishaka kandi anyuranyije n'amategeko, agamije gutera ubwoba, gukoresha ingufu, gukanga cyangwa gushyira ku nkeke ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

Iningo ya 90: Gutunga intwaro zihumanya zikoreshwa

Umuntu wese utunga intwaro zihumanya, inyandiko z'uburyo izo ntwaro zikora cyangwa zikoreshwa,

2° other buildings used or which should be used by an internationally protected person or his/her property.

Article 88: Threatening to commit terrorism

Any person who threatens to commit any act which may result into a terrorist crime shall be liable to an imprisonment of ten (10) to twenty (20) years.

Where the threat caused death to people, the criminal shall be liable to life imprisonment.

Article 89: Entering State and Diplomats premises for the purpose of committing terrorism

Any person who enters or attempts to enter into a house or premises in which the Government carries out its activities, or diplomats or international organization or into an internationally protected person's premises in an illegal way, with an intention to threaten, use force, intimidate or harass persons shall be liable to an imprisonment of twenty (20) to thirty five (35) years.

Article 90: Possession of weapons and writings indicating how chemical weapons are used

Any person who possesses chemical weapons, documents on its functionality or use, materials

2° tout autre édifice utilisé ou devant être utilisé par une personne jouissant d'une protection internationale ou son patrimoine.

Article 88: Menace de terrorisme

Quiconque menace de commettre un acte pouvant être qualifié d'infraction du terrorisme est passible d'une peine d'emprisonnement de dix (10) à vingt (20) ans.

Si une telle menace a causé la mort, il est possible d'une peine d'emprisonnement à perpétuité

Article 89: Entrée dans des maisons ou édifices de l'Etat et des diplomates en vue du terrorisme

Quiconque entre, tente d'entrer dans une maison ou un édifice utilisé ou dans lequel s'exercent les activités de l'Etat ou des représentations diplomatiques, des représentations des Organisations Internationales ou une habitation d'une personne jouissant d'une protection internationale, délibérément et de façon illicite, avec l'intention d'intimider, contraindre, menacer ou exercer une pression est passible d'une peine d'emprisonnement de vingt (20) à trente cinq (35) ans.

Article 90: Possession d'armes et d'écrits décrivant l'utilisation des armes chimiques

Quiconque possède les armes chimiques, les écrits sur leur fonctionnement et leur utilisation, les matières

igikoresho gifasha mu gukora izo ntwaro ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

Umuntu wese ukora intwaro zihumanya cyangwa umerageza kuzikora mu nganda agamije kubabaza bikomeye umubiri w'undi muntu, kwangiza umutungo cyangwa ibidukikije ahanishwa igihano cya burundu.

Ingingo ya 91 : Gukoresha ibihumanya

Umuntu wese, abigambiriye kandi agamije kwica, kubabaza umubiri w'undi muntu, kwangiza umutungo cyangwa ibidukikije aba akoze icyaha kandi ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35) iyo :

- 1° ashyize ubumara cyangwa ikintu icyo ari cyo cyose ahantu;
- 2° yohereje ubumara cyangwa ikintu cyose kiva ahantu kijya ahandi akoresheje iposita, cyangwa ubundi buryo bwose bushoboka;
- 3° yumvisha umuntu aho ari ho hose ku isi ko ikintu ari ubumara cyangwa ko gifite ubumara cyangwa ikintu cyose gihumanya cyangwa se intwaro ya kirimbuzi.

Ingingo ya 92: Gutanga amakuru atariyo ku iterabwoba

Umuntu wese utanga amakuru azi neza cyangwa

utilized to manufacture those weapons shall be liable to an imprisonment of twenty (20) to thirty five (35) years.

Any person who makes chemical weapons or tries to make them in industries, for the purpose of causing serious physical injuries to a person, demolishing property or geographical features shall be liable to a life imprisonment.

Article 91: Use of chemicals

Any person who deliberately intends to kill, causes bodily injury to another person, destroy property or environment commits a terrorist act and shall be liable to an imprisonment of twenty (20) to thirty five (35) years if :

- 1° he/she puts toxic substances or any toxic thing in a certain place;
- 2° he/she sends toxic substance or any toxic substances from one place to another by use of the postal or any other possible means;
- 3° he/she informs a person anywhere in the world that a substance is toxic or a thing is poisonous or a nuclear weapon.

Article 92: Providing false information regarding terrorism act

Any person who gives information knowing or

servant à leur fabrication est possible d'une peine d'emprisonnement de vingt (20) à trente cinq (35) ans.

Quiconque fabrique les armes chimiques, ou tente de les fabriquer en industrie, avec pour objectif de porter sérieusement atteinte au corps d'autrui, d'endommager son patrimoine ou l'environnement est possible d'une peine d'emprisonnement à perpétuité.

Article 91: Utilisation des produits chimiques

Quiconque volontairement et dans l'objectif de donner la mort, de faire des lésions corporelles sur autrui, endommager un patrimoine ou l'environnement commet une infraction et est possible d'une peine d'emprisonnement de vingt (20) à trente cinq (35) ans lorsque :

- 1° il pose les substances toxiques ou tout autre objet quelconque toxique dans un endroit ;
- 2° il envoie des substances toxiques ou un autre objet toxique d'un lieu à un autre par poste ou par tout autre moyen possible;
- 3° il fait comprendre à une personne partout où elle se trouve au monde qu'un objet constitue une substance toxique ou une arme nucléaire.

Article 92 : Fausse information sur l'acte du terrorisme

Quiconque divulgue une information dont il connaît

yizera ko atari ukuri agamije kumvisha umuntu aho ari hose ku isi ko hari ubumara cyangwa ikintu gifite ubumara, gihumanya cyangwa se intwaro ya kirimbuzi igomba kuba iri ahantu runaka byaba ari mu gihe atanga ayo makuru cyangwa se nyuma yaho ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

Iningo ya 93: Ubugambanyi n'ibikangisho

Umuntu wese ukoresha, ukangisha, ugerageza kugambana cyangwa ugambana kugira ngo hakoreshwe intwaro za kirimbuzi anyuranyije n'amategeko kandi abigambiriye, ahanishwa igihano cya burundi iyo:

- 1° yibasiye umwenegihugu cyangwa umuntu uwo ari we wese uri mu gihugu;
- 2° yibasiye umutungo washatswe, ukodeshwa cyangwa ukoreshwa n'Igihugu, serivisi cyangwa ikigo cya Leta, uwo mutungo waba uri mu gihugu cyangwa hanze yacyo.

Iningo ya 94: Ubugambanyi hanze y'igihugu

Umuntu wese ukoresha, ukangisha, ugerageza kugambana cyangwa ugambana kugira ngo hakoreshwe intwaro za kirimbuzi hanze y'Igihugu, abigambiriye, ahanishwa igihano cy'igifungo cya burundi.

thinking that the information is not true for the purpose of letting any person in the world to know that a toxic substance or nuclear material, harmful or nuclear weapons are located in certain area whenever it happens during the time of giving information or after, shall be liable to an imprisonment of twenty (20) to thirty five (35) years.

Article 93 : Conspiracy and threats

Any person who willfully uses, threatens, conspires for purpose of using nuclear weapons, unlawfully and with intent, shall be liable to life imprisonment sentence if:

- 1° he/she attacks a citizen or any other person within the country;
- 2° he/she attacks acquired property, leased or used by the State, service or institution of the state, whether that property is within or outside the country.

Article 94: Conspiracy outside the country

Any person who knowingly uses, threatens to use, tries to conspire or conspires for the purpose of using nuclear weapons outside the country shall be liable to a life imprisonment.

ou croit l'inexactitude dans l'objectif de convaincre une personne se trouvant dans un lieu quelconque au monde qu'une matière toxique nuisible ou une arme nucléaire se trouve dans un lieu déterminé soit au moment de divulgation de cette information soit après, encourt une peine d'emprisonnement de vingt (20) à trente cinq (35) ans.

Article 93 : Complot et menaces

Quiconque fait usage, menace, tente de comploter ou qui complot pour l'utilisation des armes nucléaires en violation de la loi et par sa volonté, est passible d'une peine d'emprisonnement à perpétuité lorsque:

- 1° il vise un citoyen ou toute autre personne se trouvant à l'intérieur du pays ;
- 2° il vise un patrimoine appartenant, loué ou utilisé par le pays, service ou un établissement public, que le patrimoine se trouve à l'intérieur du pays ou à l'extérieur.

Article 94: Complot à l'extérieur du pays.

Quiconque fait usage, menace, tente de comploter ou qui complot pour l'utilisation des armes nucléaires à l'extérieur du pays par sa volonté, est passible d'une peine d'emprisonnement à perpétuité.

Iningo ya 95: Igihano cy'icyaha cy'ubugambanyi no gushishikariza gukora iterabwoba

Umuntu ugambana, uhamagarira abandi gukora cyangwa ugerageza gukora kimwe mu bikorwa by'iterabwoba, iyo ubwo bugambanyi bukozwe mu buryo buziguye cyangwa butaziguye aba akoze icyaha kandi ahanishwa igihano cy'igifungo cya burundi.

Iningo ya 96: Kuyobya amato

Umuntu wese ufata cyangwa akayobya ubwato akoresheje ingufu, cyangwa yifashishije ibirwa agamije igikorwa cy'iterabwoba ahanishwa igifungo kiri hagati y'imyaka makumyabiri(20) kugeza kuri mirongo itatu n'itanu (35).

Iyo uko kuyobya ubwato kwaviriyemo abantu gupfa, ahanishwa igihano cy'igifungo cya burundi.

Iningo ya 97 : Kwangiza ubwato

Umuntu wese wangije ubwato agamije igikorwa cy'iterabwoba ahanishwa igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

Iyo iryo yangiza ryaviriyemo abantu gupfa, ahanishwa igihano cy'igifungo cya burundi.

Iningo ya 98: Gushishikariza, gufasha no kwakira ibikomoka ku iterabwoba

Umuntu wese uhamagariye undi muntu gutanga

Article 95: Conspiring and mobilizing.

Any person who commits treason, mobilizes others to commit or attempts to commit one of the acts of terrorism, where treason is directly or indirectly carried out, commits an offence and shall be liable to a life imprisonment.

Iningo ya 96: Hijacking ships

Any person who stops by force, hijacks ships or uses islands as his/her base in order to commit an act of terrorism, shall be liable to an imprisonment of twenty (20) to thirty-five (35) year.

Where the hijack caused death to people, the criminal shall be liable to a life imprisonment.

Article 97: Damaging ships

Any person who damages a ship for the purpose of terrorism shall be liable to an imprisonment of twenty (20) to thirty-five (35) year.

Where the damage has caused death the criminal shall be liable to life imprisonment.

Article 98: Propagating, financing and receiving property resulting from terrorism

Any person who instigates another person to offer

Article 95: Peine pour complot et sensibilisation au terrorisme.

Quiconque complete, sensibilise les autres à la commission ou tente de commettre l'un des actes de terrorisme, lorsque ce complot est commis de façon indirecte ou directe, est passible d'une peine d'emprisonnement à perpétuité.

Article 96: Détournement des bateaux.

Quiconque aura arrêté de force ou détourné un bateau, ou utilisé les îles comme base de terrorisme, est passible d'une peine d'emprisonnement de trente (20) à trente cinq (35) ans.

Lorsqu'un tel détournement a occasionné la mort, il est passible d'une peine d'emprisonnement à perpétuité.

Article 97: Destruction des bateaux.

Quiconque ayant détruit un bateau en vue d'un acte de terrorisme est passible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

Si une telle destruction occasionné la mort, l'auteur est passible d'une peine d'emprisonnement à perpétuité.

Article 98: Sensibilisation, appui et réception des biens provenant du terrorisme

Quiconque fait appel à un apport de fonds ou d'une

amafaranga cyangwa undi mutungo, kandi akeka ko ushobora gukoreshwa cyangwa se afite impamvu zumvikana zituma akeka ko wakoreshwa ku mpamvu z'iterabwoba ahanishwa igihano cyo gufungwa burundi.

Umuntu wese wakiriye amafaranga cyangwa undi mutungo, kandi akeka ko ushobora gukoreshwa, cyangwa afite impamvu zumvikana zituma akeka ko wakoreshwa mu mpamvu z'iterabwoba ahanishwa igihano cy'igifungo cya burundi.

Umuntu wese utanze amafaranga cyangwa undi mutungo, kandi azi cyangwa afite impamvu zumvikana zituma akeka ko uzakoreshwa cyangwa ushobora gukoreshwa ku mpamvu z'iterabwoba ahanishwa igihano cy'igifungo cya burundi.

Muri iyi ngingo kuvuga guhabwa amafaranga cyangwa undi mutungo bivuga itangwa ryayo, kugurizwa cyangwa kubika.

Ingingo ya 99: Amasezerano yo gufasha mu iterabwoba

Umuntu wese ukoze cyangwa ufile inyungu mu masezerano agamije gutuma haboneka amafaranga, undi mutungo cyangwa se gutuma hari undi ubona ayo mafaranga cyangwa inkunga, kandi azi cyangwa afite impamvu zumvikana zituma akeka ko uzakoreshwa cyangwa ushobora gukoreshwa ku mpamvu z'iterabwoba, ahanishwa igihano cy'igifungo cya burundi.

financial support or any other assets, suspecting or having relevant evidence that they can be used for terrorist purpose, shall be liable to a life imprisonment.

Any person who receives financial support or any other assets, suspecting or having relevant evidence that they can be used for terrorist purpose, shall be liable to a life imprisonment.

Any person who offers money or any other assets, expecting that it can be used, or having relevant evidence that they can be used for terrorist purpose, shall be liable to life imprisonment.

In this Article, receiving money or any other assets implies offering it, receiving a loan or saving.

Article 99: Agreements facilitating terrorism

Any person who engages in agreement or has an interest in it with a view of acquiring funds or any other assets, or enabling a person to acquire money or support, with knowledge or having relevant evidence that they can be used for terrorist purpose, shall be liable to a life imprisonment.

autre propriété, alors qu'il soupçonne, ou qu'il a des raisons fondées de soupçonner qu'ils vont servir à de fins terroristes, est possible d'une peine d'emprisonnement à perpétuité.

Quiconque reçoit des fonds ou toute autre propriété, alors qu'il soupçonne ou qu'il a des raisons fondées de soupçonner qu'ils vont servir à de fins terroristes, est possible d'une peine d'emprisonnement à perpétuité.

Quiconque offre des fonds ou toute autre propriété, alors qu'il sait ou qu'il a des raisons fondées de soupçonner qu'ils vont servir à de fins terroristes est possible d'une peine d'emprisonnement à perpétuité.

Dans le présent article, recevoir les fonds ou autre propriété signifie toute forme de versement, de crédit ou le dépôt dudit capital.

Article 99: Contrat de soutien au terrorisme

Tout contractant ou bénéficiaire du contrat ayant pour objet l'obtention de fonds ou autre propriété ou leur transfert, alors qu'il sait que ou qu'il a des raisons fondées de soupçonner qu'ils vont servir à de fins terroristes, est possible d'une peine d'emprisonnement à perpétuité.

Ingingo ya 100: Iyezandonke mu bikorwa by'iterabwoba

Umuntu wese ukoze igikorwa kigamije gufasha undi mutu kubona iyezandonke ku mutungo w'umuntu ukora iterabwoba cyangwa ushobora gukora iterabwoba, hakoreshejwe guhisha umutungo, kuwimura uwuvana ku bundi butaka, kuwimirira ku bandi bantu cyangwa mu bundi buryo ubwo ari bwo bwose bufitanye isano n'ubwavuzwe haruguru ahanishwa igihano cy'igifungo cya burundi.

Ingingo ya 101: Iterabwoba ku nyungu za politiki

Umuntu wese ukora igikorwa cy'iterabwoba ku nyungu za politiki agamije gutuma inzego z'ubutegetsi za Leta zihindura imikorere yazo ahanishwa igifungo kiri hagati y'imyaka makumyabiri na (20) na mirongo itatu n'itanu (35).

Iyo icyo gikorwa cy'iterabwoba cyateje urupfu rw'abantu, uwabikoze ahanishwa igihano cy'igifungo cya burundi.

Ingingo ya 102: Iterabwoba ku nyungu z'idini cyangwa iz'indi ngengabitekerezo

Umuntu wese ubigambiriye uzakora igikorwa cy'iterabwoba ku nyungu z'idini cyangwa z'ingengabitekerezo iyo ariyo yose, azahanishwa igihano cy'igifungo kiri hagati y'imyaka makumyabiri (20) na mirongo itatu n'itanu (35).

Iyo icyo gikorwa cyaviriyemo umuntu umwe cyangwa benshi gupfa, cyangwa kwangirika kw'ibikorwa

Article 100: Money laundering activities in terrorism

Any person who facilitates another to benefit from laundering of one's property that supports terrorism or that can be used for terrorism, by concealing it, shifting it from one place to another, taking it to other people, or any other related way shall be liable to a life imprisonment.

Article 101: Terrorism for political purposes

Any person who commits terrorism for political purposes intending to have the Government change its course of action shall be liable to a twenty (20) to an imprisonment of thirty-five (35) years.

Where such terrorist act causes death, the criminal shall be liable to a life imprisonment.

Article 102: Terrorism based on religious interests or other ideologies

Any person who commits terrorism for any religious or ideological purposes shall be liable to an imprisonment of twenty (20) to thirty-five (35) years.

Where such terrorist act causes death of one person or more or damages infrastructure, the criminal shall

Article 100: Blanchiment d'argent provenant des activités du terrorisme

Quiconque réalise un acte visant à faire bénéficier au tiers du blanchiment de biens provenant du terroriste ou soupçonné comme tel, en dissimilant la propriété, en la transférant, en l'aliénant ou en usant de tout autre moyen y relatif est possible d'une peine d'emprisonnement à perpétuité.

Article 101: Terrorisme pour des raisons politiques

Quiconque fait l'acte de terrorisme pour des raisons politiques, dans l'objectif de pousser le Gouvernement à changer ses programmes est possible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

Lorsqu'un tel acte du terrorisme a occasionné la mort, l'auteur est possible d'une peine d'emprisonnement à perpétuité.

Article 102: Terrorisme pour des raisons religieuses ou idéologiques

Quiconque fait volontairement un acte de terrorisme pour des raisons religieuses ou idéologiques est possible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

Lorsqu'un tel acte a conduit à la mort d'une ou plusieurs personnes, ou à la détérioration des

remezo, uwabikoze ahanishwa igihano cy'igifungo cya burundi.

Ingingo ya 103: Kubangamira itangwa ry'amakuru ku iterabwoba

Umuntu wese utubahirije amabwiriza areba ahantu hagoswe, azi ko bigamije kurinda ibimenyetso cyangwa ushyize igititu ku muntu amubuza gutanga amakuru yafasha kubona ibimenyetso ku gikorwa cy'iterabwoba ahanishwa igihano cy'igifungo kuva ku myaka makumyabiri (20) kugeza kuri mirongo itatu n'itanu (35).

UMUTWE WA VII: INGINGO ZISOZA

Ingingo ya 104: Ivanwaho ry'ingingo zinyuranyije n'iri tegeko

Ingingo zose z'amategeko abanziriza iri kandi zinyuranyije na ryo zivanyweho.

Ingingo ya 105: Igihe itegeko ritangira gukurikizwa

Iri tegeko ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali kuwa **09/09/2008**

Perezida wa Repubulika
KAGAME Paul
(sé)

be liable to a life imprisonment.

Article 103: Jeoperdizing the procedure of providing information about terrorism

Any person who knowingly does not respect instructions relating to an area cordoned for the purpose of evidence protection or asserts pressure against another person preventing him/her from providing information about terrorism shall be liable to an imprisonment of twenty (20) to thirty-five (35) years.

CHAPTER VII: FINAL PROVISIONS

Article 104: Abrogating provisions

All prior legal provisions contrary to this Law are hereby repealed.

Article 105: Commencement

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on **09/09/2008**

The President of the Republic
KAGAME Paul
(sé)

infrastructures, l'auteur est passible d'une peine d'emprisonnement à perpétuité.

Article 103: Entrave à la production des informations relatives au terrorisme

Quiconque, sciemment, ne respecte pas les instructions relatives au lieu encerclé en vue de la protection des preuves ou ayant exercé une pression à une personne en l'empêchant de donner les informations qu'elle détient sur le terrorisme est passible d'une peine d'emprisonnement de vingt (20) à trente-cinq (35) ans.

CHAPITRE VII: DISPOSITIONS FINALES

Article 104: Disposition abrogatoire

Toutes les dispositions légales antérieures contraires à la présente loi sont abrogées.

Article 105: Entrée en vigueur

La présente loi entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le **09/09/2008**

Le Président de la République
KAGAME Paul
(sé)

Minisitiri w'Intebe
MAKUZA Bernard
(sé)

**Bibonywe kandi bishyizweho Ikirango cya
Repubulika :**

Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta
KARUGARAMA Tharcisse
(sé)

The Prime Minister
MAKUZA Bernard
(sé)

Seen and sealed with the Seal of the Republic:

The Minister of Justice/Attorney General
KARUGARAMA Tharcisse
(sé)

Le Premier Ministre
MAKUZA Bernard
(sé)

Vu et scellé du Sceau de la République :

Le Ministre de la Justice/Garde des Sceaux
KARUGARAMA Tharcisse
(sé)

ITEGEKO N°59/2008 RYO KUWA LAW N°59/2008 OF 10/09/2008 ON LOI N°59/2008 DU 10/09/2008 PORTANT
 10/09/2008 RIKUMIRA KANDI RIHANA PREVENTION AND PUNISHMENT OF PREVENTION ET REPRESSION DE LA
 IHOHOTERWA IRYO ARI RYO RYOSE GENDER- BASED VIOLENCE VIOLENCE BASEE SUR LE GENRE
 RISHINGIYE KU GITSINA

<u>ISHAKIRO</u>	<u>TABLE OF CONTENTS</u>	<u>TABLE DES MATIERES</u>
<u>UMUTWE WA MBERE:</u> INGINGO RUSANGE	<u>CHAPTER ONE:</u> GENERAL PROVISIONS	<u>CHAPITRE PREMIER:</u> DISPOSITIONS GENERALES
<u>Ingingo ya mbere:</u> Icyo itegeko rigamije	<u>Article One:</u> Purpose of the Law	<u>Article premier:</u> Objet de la loi
<u>Ingingo ya 2:</u> Ibisobanuro by'amagambo	<u>Article 2:</u> Definitions of terms	<u>Article 2:</u> Définitions des termes
<u>UMUTWE WA II:</u> GUKUMIRA NO KURINDA IHOHOTERWA RISHINGIYE KU GITSINA	<u>CHAPTER II:</u> PREVENTION AND PROTECTION AGAINST GENDER-BASED VIOLENCE	<u>CHAPITRE II:</u> PREVENTION ET PROTECTION CONTRE LA VIOLENCE BASEE SUR LE GENRE
<u>Ingingo ya 3:</u> Gukangisha kubura ibyo afiteho uburenganzira	<u>Article 3:</u> Threatening by way of deprivation of certain rights	<u>Article 3:</u> Menace de priver une personne de ses droits
<u>Ingingo ya 4:</u> Kubuza umudendezo uwo bashyingiranywe	<u>Article 4:</u> Distorting tranquility of one's spouse	<u>Article 4:</u> Atteinte à la tranquilité du conjoint
<u>Ingingo ya 5:</u> Gukoresha ku gahato imibonano mpuzabitsina uwo bashyingiranywe	<u>Article 5:</u> Conjugal rape	<u>Article 5:</u> Viol conjugal
<u>Ingingo ya 6:</u> Ihohoterwa nk'impamvu y'ubutane	<u>Article 6:</u> Violence as the cause of divorce	<u>Article 6:</u> Sévices comme cause de divorce
<u>Ingingo ya 7:</u> Kurinda umwana ihohoterwa rishingiye ku gitsina	<u>Article 7:</u> Protecting a child against gender based violence	<u>Article 7:</u> Protection de l'enfant contre la violence basée sur le genre

**ITEGEKO NGENGA RISHYIRAH
IGITABO CY'AMATEGEKO AHANA**

**ORGANIC LAW INSTITUTING THE
PENAL CODE**

**LOI ORGANIQUE PORTANT CODE
PENAL**

Itegeko Ngenga / Organic Law / Loi Organique

N° 01/2012/OL ryo kuwa 02/05/2012

Itegeko Ngenga rishyiraho igitabo cy'amategeko ahana

N° 01/2012/OL of 02/05/2012

Organic Law instituting the penal code

N° 01/2012/OL du 02/05/2012

Loi Organique portant code penal

ITEGEKO NGENGA N° 01/2012/OL
RYO KUWA 02/05/2012 RISHYIRAH
IGITABO CY'AMATEGEKO AHANA

ORGANIC LAW N° 01/2012/OL OF LOI ORGANIQUE N° 01/2012/OL DU
02/05/2012 INSTITUTING THE PENAL 02/05/2012 PORTANT CODE PENAL
CODE

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

We, KAGAME Paul,
President of the Republic;

Nous, KAGAME Paul,
Président de la République;

INTEKO ISHINGA AMATEGEKO
YEMEJE NONE NATWE DUHAMIJE,
DUTANGAJE ITEGEKO NGENGA
RITEYE RITYA KANDI DUTEGETSE
KO RYANDIKWA MU IGAZETI YA
LETA YA REPUBLIKA Y'U RWANDA

THE PARLIAMENT HAS ADOPTED
AND WE SANCTION, PROMULGATE
THE FOLLOWING ORGANIC LAW
AND ORDER IT BE PUBLISHED IN
THE OFFICIAL GAZETTE OF THE
REPUBLIC OF RWANDA

LE PARLEMENT A ADOpte ET NOUS
SANCTIONNONS, PROMULGUONS LA
LOI ORGANIQUE DONT LA TENEUR
SUIT ET ORDONNONS QU'ELLE SOIT
PUBLIEE AU JOURNAL OFFICIEL DE
LA REPUBLIQUE DU RWANDA

INTEKO ISHINGA AMATEGEKO:

Umutwe w'Abadepite, mu nama yawo yo ku
wa 04 Mata 2012;

Umutwe wa Sena, mu nama yawo yo ku wa
04 Mata 2012;

Ishingiye ku Itegeko Nshinga rya Repubulika
y'u Rwanda ryo kuwa 04 Kamena 2003,
nk'uko ryavuguruwe kugeza ubu, cyane
cyane mu ngingo zaryo, iya 9, iya 11, iya 13,
iya 15, iya 16, iya 17, iya 18, iya 20, iya 21,
iya 22, iya 23, iya 28, iya 29, iya 32, iya 33,

THE PARLIAMENT:

The Chamber of Deputies, in its session of 04
April 2012;

The Senate, in its session of 04 April 2012;

Pursuant to the Constitution of the Republic
of Rwanda of 04 June 2003 as amended to
date, especially in Articles 9, 11, 13, 15, 16,
17, 18, 20, 21, 22, 23, 28, 29, 32, 33, 34, 46,
48, 49, 62, 66, 67, 88, 89, 90, 92, 93, 95,
108, 113 and 201;

LE PARLEMENT:

La Chambre des Députés, en sa séance du 04
avril 2012;

Le Sénat, en sa séance du 04 avril 2012;

Vu la Constitution de la République du
Rwanda du 04 juin 2003 telle que révisée à
ce jour, spécialement en ses articles 9, 11,
13, 15, 16, 17, 18, 20, 21, 22, 23, 28, 29, 32,
33, 34, 46, 48, 49, 62, 66, 67, 88, 89, 90,
92, 93, 95, 108, 113 et 201;

iya 34, iya 46, iya 48, iya 49, iya 62, iya 66, iya 67, iya 88, iya 89, iya 90, iya 92, iya 93, iya 95, iya 108, iya 113 n'iya 201;

Ishingiye ku Masezerano Mpuzamahanga y'i Genève yo kuwa 12 Kanama 1949 arebana n'amategeko mpuzamahanga agenga ibihe by'intambara yemejwe n'u Rwanda kuwa 05 Gicurasi 1964 n'amasezerano yayo y'innyongera, aya I n'aya II, yo kuwa 08 Kamena 1977 yemejwe n'u Rwanda ku wa 15 Ukwakira 1984 no ku wa 15 Ugeschyingo 1984;

Isubiye ku Itegeko Ngenga n° 16/2003 ryo kuwa 27/06/2003 rigenga Imitwe ya Politiki n'Abanyapolitiki nk'uko ryahinduwe kandi ryujujwe kugeza ubu, cyane cyane mu ngingo yaryo ya 46;

Isubiye ku Itegeko Ngenga n° 04/2005 ryo kuwa 08/04/2005 rigena uburyo bwo kurengera, kubungabunga no guteza imbere ibidukikije mu Rwanda, cyane cyane mu ngingo zaryo, iya 85, iya 86, iya 87 iya 95, iya 96, iya 97, iya 98, iya 99, iya 100, iya 101, iya 102, iya 103, iya 104, iya 105, iya 106, iya 107, iya 108 n'iya 109;

Isubiye ku Itegeko Ngenga n° 08/2005 ryo kuwa 14/07/2005 rigena imikoreshereze n'imicungire y'ubutaka mu Rwanda, cyane

Pursuant to the Geneva Conventions of 12 August 1949 relating to International Humanitarian Law ratified by Rwanda on 05 May 1964 and their Additional Protocols I and II of 08 June 1977 ratified by Rwanda on 15 October 1984 and 15 November 1984 respectively;

Having reviewed Organic Law n° 16/2003 of 27/06/2003 governing political organizations and politicians as modified and complemented to date, especially in Article 46;

Having reviewed Organic Law n° 04/2005 of 08/04/2005 determining the modalities of protection, conservation and promotion of environment in Rwanda, especially in Articles 85, 86, 87, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108 and 109;

Having reviewed Organic Law n° 08/2005 of 14/07/2005 determining the use and management of land in Rwanda, especially in

Vu les Conventions de Genève du 12 août 1949 relatives au Droit International Humanitaire ratifiées par le Rwanda en date du 05 mai 1964 et leurs Protocoles additionnels I et II du 08 juin 1977 ratifiés par le Rwanda respectivement les 15 octobre 1984 et 15 novembre 1984;

Revu la Loi Organique n° 16/2003 du 27/06/2003 régissant les formations politiques et les politiciens telle que modifiée et complétée à ce jour, spécialement en son article 46 ;

Revu la Loi Organique n° 04/2005 du 08/04/2005 portant modalités de protéger, sauvegarder et promouvoir l'environnement au Rwanda, spécialement en ses articles 85, 86, 87, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108 et 109;

Revu la Loi Organique n° 08/2005 du 14/07/2005 portant régime foncier au Rwanda, spécialement en ses articles 83, 84

cyane mu ngingo zaryo iya 83, iya 84 n'iya 85;	Articles 83, 84 and 85;	et 85;
Isubiye ku Itegeko Ngenga n° 61/2008 ryo kuwa 10/09/2008 rigena imyitwarire y'Abayobozi mu nzego za Leta cyane cyane mu ngingo zaryo, iya 22, iya 23, iya 24, iya 25, iya 26, iya 27, iya 28, iya 29 n'iya 30;	Having reviewed Organic Law n° 61/2008 of 10/09/2008 on the leadership code of conduct, especially in Articles 22, 23, 24, 25, 26, 27, 28, 29 and 30;	Revu la Loi Organique n° 61/2008 du 10/09/2008 portant code de conduite des autorités des institutions publiques, spécialement en ses articles 22, 23, 24, 25, 26, 27, 28, 29 et 30;
Isubiye ku Itegeko n° 33/91 ryo kuwa 05/08/1991 ryerekeye imyigaragambyo mu nzira nyabagendwa n'inama zikoreshejwe ku mugaragaro, cyane cyane mu ngingo yaryo ya 9;	Having reviewed Law n° 33/91 of 05/08/1991 relating to public demonstrations and meetings, especially in Article 9;	Revu la Loi n° 33/91 du 05/08/1991 relative aux manifestations sur la voie publique et réunions publiques, spécialement en son article 9;
Isubiye ku Itegeko n° 47/2001 ryo kuwa 18/12/2001 rihana icyaha cy'ivangura n'icyo gukurura amacakubiri, cyane cyane mu ngingo zaryo, iya 5, iya 6, iya 7, iya 8, iya 9, iya 10, iya 11, iya 12 n'iya 13;	Having reviewed Law n° 47/2001 of 18 December 2001 instituting punishment for offences of discrimination and sectarianism, especially in Articles 5, 6, 7, 8, 9, 10, 11, 12 and 13;	Revu la Loi n° 47/2001 du 18 décembre 2001 portant répression des crimes de discrimination et pratique du sectarisme, spécialement en ses articles 5, 6, 7, 8, 9, 10, 11, 12 et 13;
Isubiye ku Itegeko n° 14/2003 ryo kuwa 23/05/2003 ryerekeye ituburwa, igenzurwa n'icuruzwa ry'imbuto nziza z'ibihingwa cyane cyane mu ngingo zaryo iya 14, iya 15 n'iya 16;	Having reviewed Law n° 14/2003 of 23/05/2003 on production, quality control and commercialization of plant quality seeds, especially in Articles 14, 15 and 16;	Revu la Loi n° 14/2003 du 23/05/2003 portant production, contrôle de qualité et commercialisation des semences végétales, spécialement en ses articles 14, 15 et 16;
Isubiye ku Itegeko n° 23/2003 ryo kuwa 07/08/2003 ryerekeye gukumira, kurwanya no guhana ruswa n'ibyaha bifitanye isano nayo, cyane cyane mu ngingo zaryo iya 10, iya 11, iya 12, iya 13, iya 14, iya 15, iya 16,	Having reviewed Law n° 23/2003 of 07 August 2003 related to the prevention and the punishment of corruption and related offences, especially in Articles 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,	Revu la Loi n° 23/2003 du 07 août 2003 relative à la prévention et à la répression de la corruption et des infractions connexes, spécialement en ses articles 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25,

iya 17, iya 18, iya 19, iya 20, iya 21, iya 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 38, 39, 40 26, 27, 28, 29, 30, 31, 32, 33, 34, 38, 39, 40
iya 23, iya 24, iya 25, iya 26, iya 27, iya 28, and 41; et 41;
iya 29, iya 30, iya 31, iya 32, iya 33, iya 34,
iya 38, iya 39, iya 40, n'iya 41;

Isubiye ku Itegeko n° 25/2005 ryo kuwa 04/12/2005 rigena imitunganyirize y'isoresha nk'uko ryahinduwe kandi ryujujwe kugeza ubu, cyane cyane mu ngingo zaryo, iya 64 n'iya 65;

Isubiye ku Itegeko n° 12/2007 ryo kuwa 27/03/2007 rigenga amasoko ya Leta cyane cyane mu ngingo zaryo iya 176 n'iya 178;

Isubiye ku Itegeko n° 50/2007 ryo kuwa 18/09/2007 rigena ishyirwaho, imiterere n'imikorere y'amakoperative mu Rwanda nk'uko ryahinduwe kandi ryujujwe kugeza ubu, cyane cyane mu ngingo zaryo iya 117, iya 118, iya 119, iya 120, iya 121, iya 122, iya 123, iya 124, iya 125, iya 126, iya 127 n'iya 128;

Isubiye ku Itegeko n° 14/2008 ryo kuwa 04/06/2008 rigena iyandikwa ry'abaturage n'itangwa ry'ikarita ndangamuntu ku Banyarwanda cyane cyane mu ngingo zaryo iya 12 n'iya 13;

Isubiye ku Itegeko n° 18/2008 ryo kuwa

Having reviewed Law n° 25/2005 of 04/12/2005 on tax procedures as modified and complemented to date, especially in Articles 64 and 65;

Having reviewed Law n° 12/2007 of 27/03/2007 on public procurement, especially in Articles 176 and 178;

Having reviewed Law n° 50/2007 of 18/09/2007 providing for the establishment, organization and functioning of cooperative organizations in Rwanda as modified and complemented to date, especially in Articles 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127 and 128;

Having reviewed Law n° 14/2008 of 04/06/2008 governing registration of the population and issuance of the national identity card, especially in Articles 12 and 13;

Having reviewed Law n° 18/2008 of

Revu la Loi n° 25/2005 du 04/12/2005 portant création des procédures fiscales telle que modifiée et complétée à ce jour, spécialement en ses articles 64 et 65;

Revu la Loi n° 12/2007 du 27/03/2007 relative aux marchés publics, spécialement en ses articles 176 et 178;

Revu la Loi n° 50/2007 du 18/09/2007 portant création, organisation et fonctionnement des sociétés coopératives au Rwanda telle que modifiée et complétée à ce jour, spécialement en ses articles 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127 et 128;

Revu la Loi n° 14/2008 du 04/06/2008 relative à l'enregistrement de la population et à la délivrance de la carte d'identité, spécialement en ses articles 12 et 13;

Revu la Loi n° 18/2008 du 23/07/2008

23/07/2008 rihana icyaha cy'ingengabitekerezo ya Jenoside, cyane cyane mu ngingo zaryo, iya 4, iya 5, iya 6, iya 7, iya 8, iya 9, iya 10, iya 11, iya 12, n'iya 13;	23/07/2008 relating to the punishment of the crime of genocide ideology, especially in Articles 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13;	portant répression du crime d'idéologie du génocide, spécialement en ses articles 4, 5, 6, 7, 8, 9, 10, 11, 12 et 13;
Isubiye ku Itegeko n° 19/2008 ryo kuwa 14/07/2008 rigena imiterere n'iyubahirizwa ry'indirimbo y'igihugu cyane cyane mu ngingo yaryo ya 8;	Having reviewed Law n° 19/2008 of 14/07/2008 on characteristics and ceremonies of the national anthem, especially in Article 8;	Revu la Loi n° 19/2008 du 14/07/2008 portant caractéristiques et cérémonial de l'Hymne National spécialement en son article 8 ;
Isubiye ku Itegeko n° 34/2008 ryo kuwa 08/08/2008 rigena imiterere, ibisobanuro, imikoreshereze n'iyubahirizwa ry'ibendera ry'igihugu, cyane cyane mu ngingo zaryo iya 29 n'iya 30;	Having reviewed Law n° 34/2008 of 08/08/2008 on characteristics, ceremonial and respect of the National flag of the Republic of Rwanda, especially in Articles 29 and 30;	Revu la Loi n° 34/2008 du 08/08/2008 portant caractéristiques, cérémonial et respect du drapeau national, spécialement en ses articles 29 et 30;
Isubiye ku Itegeko n° 37/2008 ryo kuwa 11/08/2008 rigenga ubucukuzi bw'amabuye y'agaciro na kariyeri, cyane cyane mu ngingo zaryo, iya 102, iya 103, iya 104, iya 105, iya 106, iya 107, iya 108, iya 109, iya 110 n'iya 111;	Having reviewed Law n° 37/2008 of 11/08/2008 on mining and quarry exploitation, especially in Articles 102, 103, 104, 105, 106, 107, 108, 109, 110 and 111;	Revu la Loi n° 37/2008 du 11/08/2008 portant exploitation des mines et des carrières, spécialement en ses articles 102, 103, 104, 105, 106, 107, 108, 109, 110 et 111;
Isubiye ku Itegeko n° 45/2008 ryo kuwa 09/09/2008 ryerekeye kurwanya iterabwoba, cyane cyane mu ngingo zaryo, iya 75, iya 76, iya 77, iya 78, iya 79, iya 80, iya 81, iya 82, iya 83, iya 84, iya 86, iya 87, iya 88, iya 89, iya 90, iya 91, iya 92, iya 93, iya 94, iya 95, iya 96, iya 97, iya 98, iya 99, iya 100, iya 101, iya 102 n'iya 103;	Having reviewed Law n° 45/2008 of 09/09/2008 on counter terrorism, especially in Articles 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 96, 97, 98, 99, 100, 101, 102 and 103;	Revu la Loi n° 45/2008 du 09/09/2008 relative à la lutte contre le terrorisme, spécialement en ses articles 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 96, 97, 98, 99, 100, 101, 102 et 103;

Isubiye ku Itegeko n° 47/2008 ryo kuwa 09/09/2008 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, cyane cyane mu ngingo zaryo, iya 4, iya 48, iya 49, iya 50, iya 51, iya 52, iya 53, iya 57, iya 58, iya 59 n'iya 61;

Isubiye ku Itegeko n° 54/2008 ryo kuwa 10/09/2008 rigenga uburyo bwo kwirinda no kurwanya indwara zanduza amatungo mu Rwanda, cyane cyane mu ngingo yaryo ya 159;

Isubiye ku Itegeko n° 56/2008 ryo kuwa 10/09/2008 rigenga inzibutso n'amarimbi by'abazize Jenoside yakorewe Abatutsi mu Rwanda, cyane cyane mu ngingo zaryo, iya 21, iya 22, iya 23 n'iya 24;

Isubiye ku Itegeko n° 57/2008 ryo kuwa 10/09/2008 ryerekeye kubuza ikorwa, itumizwa, ikoreshwa n'icuruzwa ry'amasashe akozwe muri pulasitiki mu Rwanda, cyane cyane mu ngingo yaryo ya 7;

Isubiye ku Itegeko n° 58/2008 ryo kuwa 10/09/2008 rigena imitunganyirize n'imicungire y'ubworozi bwo mu mazi n'uburobyi mu Rwanda, cyane cyane mu ngingo zaryo, iya 29, iya 30, iya 31, iya 32 n'iya 33;

Having reviewed Law n° 47/2008 of 09 /09/2008 on prevention and penalising the crime of money laundering and financing terrorism, especially in Articles 4, 48, 49, 50, 51, 52, 53, 57, 58, 59 and 61;

Having reviewed Law n° 54/2008 of 10/09/2008 determining the prevention and fight against contagious diseases for domestic animals in Rwanda, especially in Article 159;

Having reviewed Law n° 56/2008 of 10/09/2008 governing memorial sites and cemeteries of victims of the genocide against the Tutsi in Rwanda, especially in Articles 21, 22, 23 and 24;

Having reviewed Law n° 57/2008 of 10/09/2008 relating to the prohibition of manufacturing, importation, use and sale of polythene bags in Rwanda, especially in Article 7;

Having reviewed Law n° 58/2008 of 10/09/2008 determining the organization and management of aquaculture and fishing in Rwanda, especially in Articles 29, 30, 31, 32 and 33;

Revu la Loi n° 47/2008 du 09 /09/2008 relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme, spécialement en ses articles 4, 48, 49, 50, 51, 52, 53, 57, 58, 59 et 61;

Revu la Loi n° 54/2008 du 10/09/2008 portant règlement de la police sanitaire des animaux domestiques au Rwanda, spécialement en son article 159;

Revu la Loi n° 56/2008 de la 10/09/2008 portant organisation des sites mémoriaux et cimetières pour les victimes du Génocide perpétré contre les Tutsi au Rwanda, spécialement en ses articles 21, 22, 23 et 24;

Revu la Loi n° 57/2008 du 10/09/2008 portant interdiction de la fabrication, l'importation, de l'utilisation et de la commercialisation des sachets en plastique au Rwanda, spécialement en son article 7;

Revu la Loi n° 58/2008 du 10/09/2008 portant organisation de l'aquaculture et de la pêche au Rwanda, spécialement en ses articles 29, 30, 31, 32 et 33;

Isubiye ku Itegeko n° 59/2008 ryo kuwa 10/9/2008 rikumira kandi rihana iohohotera iryo ari ryo ryose rishingiye ku gitsina, cyane cyane mu ngingo zaryo, iya 2, iya 14, iya 15, iya 16, iya 17, iya 18, iya 19, iya 20, iya 21, iya 22, iya 23, iya 24, iya 25, iya 26, iya 27, iya 29, iya 30, iya 31, iya 32, iya 33, iya 34, iya 35 n'iya 36;

Isubiye ku Itegeko n° 62/2008 ryo kuwa 10/09/2008 rigena uburyo bwo gukoresha, kubungabunga, kurengera no gucunga neza umutungo w'amazi, cyane cyane mu ngingo zaryo, iya 83, iya 84, iya 85, iya 86, iya 87, iya 88 n'iya 89;

Isubiye ku Itegeko n° 07/2009 ryo kuwa 27/04/2009 ryerekeye amasosiyete y'ubucuruzi nk'uko ryahinduwe kandi ryujujwe kugeza ubu, cyane cyane mu ngingo zaryo, iya 361, iya 362, iya 363, iya 364, iya 365, iya 366, iya 367, iya 368, iya 369, iya 370, iya 371 n'iya 373;

Isubiye ku Itegeko n° 13/2009 ryo kuwa 27/05/2009 rigenga umurimo mu Rwanda, cyane cyane mu ngingo yayo ya 167;

Isubiye ku Itegeko n° 22/2009 ryo kuwa 12/08/2009 rigenga itangazamakuru, cyane cyane mu ngingo zaryo, iya 73, iya 74, iya 75, iya 76, iya 77, iya 78, iya 79, iya 80, iya

Having reviewed Law n° 59/2008 of 10 September 2008 on prevention and punishment of Gender based violence, especially in Articles 2, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35 and 36;

Having reviewed Law n° 62/2008 of 10/09/2008 putting in place the use, conservation, protection and management of water resources regulations, especially in Articles 83, 84, 85, 86, 87, 88 and 89;

Having reviewed Law n° 07/2009 of 27/04/2009 relating to companies as modified and complemented to date, especially in Articles 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371 and 373;

Having reviewed Law n° 13/2009 of 27/05/2009 regulating labour in Rwanda, especially in Article 167;

Having reviewed Law n° 22/2009 of 12/08/2009 on media, especially in Articles 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 88;

Revu la Loi n° 59/2008 du 10 septembre 2008 portant prévention et répression de la violence basée sur le genre, spécialement en ses articles 2, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35 et 36;

Revu la Loi n° 62/2008 du 10/09/2008 fixant les règles d'utilisation, de conservation, de protection et de gestion des ressources en eau, spécialement en ses articles 83, 84, 85, 86, 87, 88 et 89;

Revu la Loi n° 07/2009 du 27/04/2009 relative aux sociétés commerciales telle que modifiée et complétée à ce jour, spécialement en ses articles 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371 et 373;

Revu la Loi n° 13/2009 du 27/05/2009 portant réglementation du travail au Rwanda, spécialement en son article 167;

Revu la Loi n° 22/2009 du 12/08/2009 régissant les médias, spécialement en ses articles 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 et 88;

81, iya 82, iya 83 n'iya 88;

Isubiye ku Itegeko n° 31/2009 ryo kuwa 26/10/2009 rigamije kurengera umutungo bwite mu by'ubwenge, cyane cyane mu ngingo zaryo, iya 261, iya 263 n'iya 264;

Isubiye ku Itegeko n° 33/2009 ryo kuwa 18/11/2009 ryerekeye intwaro, cyane cyane mu ngingo zaryo, iya 65, iya 66, iya 67, iya 68, iya 69 n'iya 70;

Isubiye ku Itegeko n° 03/2010 ryo kuwa 26/02/2010 ryerekeye uburyo bw'imyishyuranire, cyane cyane mu ngingo yaryo ya 24;

Isubiye ku Itegeko n° 04/2010 ryo kuwa 16/04/2010 rigena imikoreshereze y'ingingo z'umubiri n'ibikomoka mu mubiri w'umuntu mu buvuzi, mu nyigisho no mu buhanga cyane cyane mu ngingo zaryo, iya 17, iya 18, iya 19, iya 20 n'iya 21;

Isubiye ku Itegeko n° 18/2010 ryo kuwa 12/5/2010 ryerekeye ubutumwa koranabuhanga, umukono koranabuhanga n' ihererekanya koranabuhanga cyane cyane mu ngingo zaryo, iya 58, iya 59, iya 60, iya 61, iya 62, iya 63, iya 64 n'iya 65;

Isubiye ku Itegeko n° 27/2010 ryo kuwa

Having reviewed Law n° 31/2009 of 26/10/2009 on the protection of intellectual property, especially in Articles 261, 263 and 264;

Having reviewed Law n° 33/2009 of 18/11/2009 relating to arms, especially in Articles 65, 66, 67, 68, 69 and 70;

Having reviewed Law n° 03/2010 of 26/02/2010 concerning payment system, especially in Article 24;

Having reviewed Law n° 04/2010 of 16/04/2010 regulating therapeutic educational and scientific utilisation of organs and products of the human body especially in Articles 17, 18, 19, 20 and 21;

Having reviewed Law n° 18/2010 of 12/5/2010 relating to electronic messages, electronic signatures and electronic transactions especially in Articles 58, 59, 60, 61, 62, 63, 64 and 65;

Having reviewed Law n° 27/2010 of

Revu la Loi n° 31/2009 du 26/10/2009 portant protection de la propriété intellectuelle, spécialement en ses articles 261, 263 et 264;

Revu la Loi n° 33/2009 du 18/11/2009 portant régime des armes, spécialement en ses articles 65, 66, 67, 68, 69 et 70;

Revu la Loi n° 03/2010 du 26/02/2010 relative au système de paiement, spécialement en son article 24 ;

Revu la Loi n° 04/2010 du 16/04/2010 régissant l'utilisation thérapeutique, pédagogique et scientifique des organes et produits du corps humain, spécialement en ses articles 17, 18, 19, 20 et 21;

Revu la Loi n° 18/2010 du 12/5/2010 relative aux messages électroniques, signatures électroniques et transactions électroniques, spécialement en ses articles 58, 59, 60, 61, 62, 63, 64 et 65;

Revu la Loi n° 27/2010 du 19/06/2010

19/06/2010 rigenga amatora nk'uko ryahinduwe kandi ryujujwe kugeza ubu, cyane cyane mu ngingo zaryo iya 187, iya 188, iya 189, iya 190, iya 191, iya 192, iya 193, iya 194, iya 195, iya 196, iya 197, iya 198, iya 199, iya 200, iya 201, iya 202 n'iya 203;

Isubiye ku Itegeko n° 01/2011 ryo kuwa 10/02/2011 rigenga isoko ry'imari n'imigabane mu Rwanda cyane cyane mu ngingo zaryo, iya 64, iya 65, iya 66, iya 67, iya 68, iya 69, iya 70, iya 71 n'iya 72;

Isubiye ku Itegeko n° 04/2011 ryo kuwa 21/03/2011 ryerekeye abinjira n'abasohoka mu Rwanda cyane cyane mu ngingo zaryo, iya 37, iya 38, iya 39, iya 40, iya 41, iya 42, iya 43, iya 44, iya 45, iya 46, iya 47 n'iya 49;

Isubiye ku Itegeko n° 21/2011 ryo kuwa 23/06/2011 rigenga amashanyarazi mu Rwanda cyane cyane mu ngingo zaryo, iya 50 n'iya 51;

Isubiye ku Itegeko n° 33 bis/2003 ryo kuwa 06/09/2003 rihana icyaha cya jenoside, ibyaha byibasiye inyokomuntu n'ibyaha by'intambara;

Isubiye ku Itegeko-Teka n° 21/77 ryo kuwa 18 Kanama 1977 ryerekeye Igitabo

19/06/2010 relating to elections, as modified and complemented to date, especially in Articles 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202 and 203;

Having reviewed Law n° 01/2011 of 10/02/2011 regulating capital market in Rwanda, especially in Articles 64, 65, 66, 67, 68, 69, 70, 71 and 72;

Having reviewed Law n° 04/2011 of 21/03/2011 on immigration and emigration in Rwanda, especially in Articles 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 49;

Having reviewed Law n° 21/2011 of 23/06/2011 governing electricity in Rwanda especially in Articles 50 and 51;

Having reviewed Law n° 33 bis/2003 of 06/09/2003 punishing the crime of genocide, crimes against humanity and war crimes;

Having reviewed Decree -Law n° 21/77 of 18/08/1977 instituting the Penal Code as

relative aux élections telle que modifiée et complétée à ce jour, spécialement en ses articles 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202 et 203;

Revu la Loi n° 01/2011 of 10/02/2011 portant régulation du marché des capitaux au Rwanda spécialement en ses articles 64, 65, 66, 67, 68, 69, 70, 71 et 72;

Revu la Loi n° 04/2011 du 21/03/2011 sur l'immigration et l'émigration au Rwanda spécialement en ses articles 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 et 49 ;

Revu la Loi n° 21/2011 du 23/06/2011 régissant l'électricité au Rwanda, spécialement en ses articles 50 et 51 ;

Revu la Loi n° 33 bis/2003 du 06/09/2003 réprimant le crime de génocide, les crimes contre l'humanité et les crimes de guerre;

Revu le Décret-Loi n° 21/77 du 18/08/1977 portant Code Pénal tel que modifié et

cy'Amategeko Ahana nk'uko ryahinduwe
kandi ryujujwe kugeza ubu;

modified and complemented to date;

complété à ce jour;

YEMEJE:

ADOPTS:

ADOPTE:

**IGICE CYA MBERE: IBYAHA
N'IBIHANO MURI RUSANGE**

**PART ONE: OFFENCES
PENALTIES IN GENERAL**

**PREMIERE PARTIE: INFRACTIONS
ET PEINES EN GENERAL**

**INTERURO YA MBERE: AMAHAME
RUSANGE**

TITLE ONE: GENERAL PRINCIPLES

**TITRE PREMIER: PRINCIPES
GÉNÉRAUX**

**UMUTWE WA MBERE: INGINGO
Z'IBANZE**

**CHAPTER ONE: PRELIMINARY
PROVISIONS**

**CHAPITRE PREMIER: DISPOSITIONS
PRÉLIMINAIRES**

**Iningo ya mbere: Icyo iri tegeko ngenga
rigamije**

Article One: Purpose of this Organic Law

**Article premier: Objet de la présente loi
organique**

Iri tegeko ngenga riteganya ibyaha n'ibihano
ku babikoze, abafatanyije na bo kubikora
n'ibyitso byabo.

This Organic Law sets out offences and
provide for penalties applicable to offenders,
co-offenders and accomplices.

La présente loi organique prévoit les
infractions et détermine les peines
applicables à leurs auteurs, coauteurs et
complices.

Iningo ya 2: Icyaha

Article 2: Offence

Article 2: Infraction

Icyaha ni igikorwa kibujije cyangwa icyo
kwanga gukora igitegetswe ku buryo
buhungabanya umutekano mu bantu kandi
hari itegeko ribiteganyiriza ibihano.

An offence is an act prohibited or an omission
which manifests itself as a breach of the public
order and which the law sanctions by a
punishment.

Une infraction est un acte interdit ou une
omission qui se manifeste comme une
atteinte à l'ordre social et que la loi
sanctionne par une peine.

Iningo ya 3: Nta gihano hatari itegeko

Nta muntu ushobora guhanwa kubera gukora ikibujijwe cyangwa kwanga gukora igitelgetswa bitari icyaha hakurikijwe amategeko y'igihugu cyangwa mpuzamahanga mu gihe byakorwaga.

Nta muntu ushobora guhanishwa igihano kiruta icyari giteganyijwe n'itegeko mu gihe icyaha cyakorwaga.

Nta cyaha gihanishwa ibihano bitari biteganyijwe n'itegeko ryatangajwe mbere y'uko gikorwa.

Article 3: No punishment without law

A person shall not be punished on account of an act or omission that did not constitute an offence at the time of commission under national or international law.

A person shall not be penalized for a heavier penalty than that which was provided for by law at the time the offence was committed.

An offence shall not be punishable by penalties which were not provided for by the law published before its commission.

Article 3: Pas de peine sans loi

Nul ne peut être condamné pour une action ou omission qui ne constituait pas une infraction d'après le droit national ou international au moment où elle a été commise.

Nul ne peut être puni d'une peine plus sévère que celle qui était prévue par la loi au moment où l'infraction a été commise.

Nulle infraction ne peut être punie des peines qui n'étaient pas prévues par la loi publiée avant qu'elle ne fût commise.

Iningo ya 4: Ikoreshwa ry'amategeko ahana

Amategeko ahana ntashobora gukoreshwa ku buryo butandukira, agomba gufatwa uko ateye.

Inkiko zibujijwe guca imanza ku buryo bugenekereje.

Article 4: Interpretation of criminal laws

Criminal laws shall not be interpreted to extensively, they must be construed strictly.

Courts are not allowed to pronounce sentences by analogy.

Article 4: Interprétation des lois pénales

Les lois pénales ne peuvent être étendues, elles doivent être interprétées restrictivement.

Il est interdit aux juridictions de prononcer par analogie.

Iningo ya 5: Itegeko rikoreshwa igihe hari amategeko menshi ahana icyaha kimwe

Iyo habonetse amategeko menshi ahana icyaha kimwe, itegeko ryihariye ni ryo

Article 5: Law applied in case of several laws applicable to the same offence

When several laws punish the same offence, the specific law shall take precedence over the

Article 5: Loi applicable lorsqu'il y a plusieurs lois punissant la même infraction

Lorsque plusieurs lois punissent la même infraction, la loi spéciale déroge à la loi

rikoreshwa mu mwanya w'itegeko rusange, keretse iyo itegeko ribiteganya ukundi.

Iningo ya 6: Kudahana kabiri icyaha kimwe

Nta muntu ushobora guhanirwa kabiri icyaha kimwe.

UMUTWE WA II: IMIKORESHEREZE Y'ITEGEKO RIHANA

Iningo ya 7: Igihe itegeko rireka gukurikizwa

Itegeko rireka gukurikizwa ku byaha byakozwe rikiriho iyo ryavuyeho urubanza rw'ibyo byaha rutaracibwa burundu, keretse iyo itegeko rishya ribiteganya ukundi.

Iningo ya 8: Impurirane y'amategeko abiri ahana

Mu gihe hari amategeko abiri ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi ryaratangajwe kuva icyaha gikozwe, ariko urubanza rutaracibwa burundu, itegeko rishya ni ryo ryonyine rigomba gukurikizwa iyo riteganya igihano cyoroheje.

general law, unless the law provides otherwise.

Article 6: Prohibition of double jeopardy

A person shall not be punished twice for the same offence.

CHAPTER II: APPLICATION OF A CRIMINAL LAW

Article 7: When the law ceases to be applicable

The law ceases to be applicable to offences committed during its validity when it is repealed before the handing down of the final judgment in relation to such offences, unless the new law provides otherwise.

Article 8: Conflict of two criminal laws

In case of conflict of two criminal laws including the old one under which the offence was committed and the new one enacted after the offence was committed but before the final judgment is delivered, the new law shall be applied, if it provides for a lesser penalty.

générale, sauf si la loi en dispose autrement.

Article 6: Interdiction de la double incrimination

Nul ne peut être puni deux fois du chef de la même infraction.

CHAPITRE II: APPLICATION D'UNE LOI PENALE

Article 7: Cessation d'application d'une loi

La loi cesse d'être applicable aux infractions commises pendant sa validité, si elle est abrogée avant que le jugement sur ces infractions soit définitif, à moins que la loi nouvelle n'en dispose autrement.

Article 8: Concours de deux lois pénales

En cas de concours de deux lois pénales, l'une sous l'empire de laquelle l'infraction a été commise et l'autre publiée après que l'infraction soit commise mais avant qu'un jugement définitif ait été rendu, la loi nouvelle est la seule à appliquer si elle prévoit une peine moins sévère.

n'itegeko ry'u Rwanda.

Ingingo ya 14: Isuzumwa ry'ubwenegihugu nyarwanda

Umunyarwanda uvugwa mu ngingo ya 9, iya 11 n'iya 13 z'iri Tegeko Ngenga ni uwari ufite ubwenegihugu nyarwanda igithe icyaha cyakorwaga.

Ingingo ya 15: Icyaha mpuzamahanga n'icyaha cyambuka imbibi

Muri iri tegeko ngenga:

Icyitwa icyaha cyo mu rwego mpuzamahanga ni icyaha giteganywa gutyo n'Amasezerano Mpuzamahanga.

Icyaha cyitwa ko cyambuka imbibi iyo kimwe mu bikorwa bikigize gikorewe hanze y'imipaka y'u Rwanda.

Ingingo ya 16: Ihanwa ry'icyaha mpuzamahanga n'icyaha cyambuka imbibi

Umuntu wese, yaba Umunyarwanda cyangwa umunyamahanga, imiryango cyangwa amashyirahamwe bitari ibya Leta

Article 14: Assessment of Rwandan nationality

The Rwandan referred to under Articles 9, 11 and 13 of this Organic Law is the one who had a Rwandan nationality at the time of the commission of the offence.

Article 15: International crime and cross-border crime

For the purposes of this Organic Law:

An international crime means any crime characterized as such by International Conventions.

A cross- border crime means a crime for which one of its constituent elements is accomplished outside Rwanda's borders.

Article 16: Punishment of an international crime and cross- border crime

Any person, whether Rwandan or foreigner, a Rwandan or foreign non-governmental organization or association, that commits,

rwandaise.

Article 14: Appréciation de la nationalité rwandaise

Le rwandais visé aux articles 9, 11 et 13 de la présente loi organique est celui qui avait la nationalité rwandaise au moment de la commission de l'infraction.

Article 15: Crime à caractère international et crime à caractère transfrontalier

Au sens de la présente loi organique :

Un crime à caractère international est une infraction qualifiée comme telle par les Conventions Internationales.

Un crime à caractère transfrontalier est une infraction dont l'un de ses éléments constitutifs est accompli au-delà des frontières du Rwanda.

Article 16: Répression d'un crime à caractère international et d'un crime à caractère transfrontalier

Toute personne, qu'elle soit rwandaise ou étrangère, une organisation ou une association non gouvernementale nationale

byo mu Rwanda cyangwa mu mahanga, ukoreye mu ifasi y'u Rwanda cyangwa mu mahanga ibyaha byo mu rwego mpuzamahanga cyangwa byambuka imbibi ashobora, iyo afatiwe mu ifasi ya Repubulika y'u Rwanda, gukurikiranwa no gucirwa urubanza n'inkiko z'u Rwanda hakurikijwe amategeko y'u Rwanda nk'aho kimwe mu byaha bikurikira cyaba cyarakorewe mu Rwanda:

- 1° ibyaha by'iterabwoba;
- 2° ibyo gufatira abantu ho ingwate;
- 3° ibyo kuyobya ubwato cyangwa indege;
- 4° ibyo gucuruza ibiyobyabwenge;
- 5° ibyo gucura no gucuruza intwarz mu buryo butemewe n'amategeko;
- 6° ibyo gukoresha amafaranga akomoka ku bikorwa bitemewe n'amategeko;
- 7° ibyo kwiba ibinyabiziga bigacuruzwa mu mahanga;
- 8° iby'ikoranabuhanga mu itangazabumenyi no mu itumanaho;

inside or outside the Rwandan territory, or cross-border crimes may, if apprehended on the territory of the Republic of Rwanda, be prosecuted and tried by Rwandan Courts in accordance with Rwandan laws as if any of the following crimes had been committed in Rwanda :

ou étrangère, qui commet sur le territoire rwandais ou étranger, des infractions qualifiées crimes à caractère international ou transfrontalier peut, si elle est arrêtée sur le territoire de la République du Rwanda, être poursuivie et jugée par les juridictions du Rwanda conformément au droit rwandais comme si l'un des crimes suivants avait été commis au Rwanda :

- 1° terrorism;
- 2° hostage-taking;
- 3° piracy;
- 4° drug trafficking;
- 5° illicit manufacturing and trafficking in arms;
- 6° money laundering;
- 7° cross-border theft of vehicles with the intent of selling them abroad;
- 8° information and communication technology related offences;

- 1° le terrorisme ;
- 2° la prise d'otage ;
- 3° la piraterie ;
- 4° le trafic des stupéfiants ;
- 5° la fabrication et le trafic illicite d'armes ;
- 6° le blanchiment d'argent ;
- 7° le vol des véhicules en vue de les vendre à l'étranger ;
- 8° les infractions liées aux technologies de l'information et de la communication ;

9° gucuruza abantu, by'umwihariko abana;	9° trafficking in human beings especially children;	9° le trafic d'êtres humains en particulier des enfants ;
10° ibyaha by'ubucakara iby'iycarubozo;	10° slavery and torture;	10° l'esclavage et la torture ;
11° ibikorwa by'indengakamere cyangwa bitesha agaciro ubumuntu;	11° cruel, inhuman or degrading treatment;	11° les traitements cruels, inhumains ou dégradants ;
12° icyaha cya jenoside, ibyaha byibasiye inyokomuntu n'ibyaha by'intambara;	12° genocide, crimes against humanity and war crimes;	12° le génocide, les crimes contre l'humanité et les crimes de guerre;
13° guhakana cyangwa gupfobya jenoside;	13° genocide denial or revisionism;	13° le négationnisme ou le révisionnisme du génocide ;
14° gushishikariza, guhamagarira, gutera inkunga, korohereza cyangwa kugira uruhare ku bundi buryo, haba ku buryo buziguye cyangwa butaziguye mu gukora ibyaha bivugwa muri iyi ngingo n'ibindi byaha bifitanye isano na byo.	14° encouraging, mobilizing, assisting, facilitating or participating in any other manner, whether directly or indirectly, in the commission of any of the offences specified in this Article or any other related offences.	14° l'incitation, la mobilisation, l'assistance, la facilitation ou toute autre forme de participation, soit directement ou indirectement dans la commission des crimes spécifiés dans le présent article ainsi que d'autres infractions connexes.

Iningo ya 17: Ikurikirana ry'ibyaha by'ubugome cyangwa bikomeye byakorewe mu mahanga

Gukurikirana ibyaha by'ubugome cyangwa bikomeye byakorewe mu mahanga, ntibishobora gutangira bidasabwe n'Ubusinjacyaha cyangwa abandi bantu

Article 17: Prosecution of a felony or a misdemeanour committed abroad

The prosecution of a felony or misdemeanour committed abroad may only be instituted at the request of the Public Prosecution or any other interested persons.

Article 17: Poursuite des crimes et délits commis à l'étranger

La poursuite des crimes et délits commis à l'étranger, ne peut être intentée qu'à la requête de l'Organe National de Poursuite ou de toutes autres personnes intéressées.

**UMUTWE WA MBERE: IBYICIRO
BY'IBYAH**

Iningo ya 21: Ubusumbane bw'ibyaha

Ibyaha bisumbana hakurikijwe uburemere bwabyo ku buryo bukurikira:

- 1° ibyaha by'ubugome;
- 2° ibyaha bikomeye;
- 3° ibyaha byoroheje.

Iningo ya 22: Icyaha cy'ubugome

Icyaha cy'ubugome ni icyaha itegeko rihanisha igihano cy'iremezo cy'igifungo kirenze imyaka itanu (5).

Iningo ya 23: Icyaha gikomeye

Icyaha gikomeye ni icyaha itegeko rihanisha igihano cy'iremezo cy'igifungo kuva ku mezi atandatu (6) kugeza ku myaka itanu (5).

Iningo ya 24: Icyaha cyoroheje

Icyaha cyoroheje ni icyaha itegeko rihanisha igihano cy'iremezo cy'igifungo kitageze ku

CHAPTER ONE: CATEGORIES OF OFFENCES

Article 21: Classification of offences

Offences are classified according to their gravity as follows:

1. felonies;
2. misdemeanours;
3. petty offences.

Article 22: Felony

A felony is an offence punishable under the law by a main penalty of an imprisonment of more than five (5) years.

Article 23: Misdemeanour

A misdemeanour is an offence punishable under the law by a main penalty of an imprisonment of six (6) months to five (5) years.

Article 24: Petty offence

A petty offence is an offense punishable under the law by a main penalty of an imprisonment of less than six (6) months or

CHAPITRE PREMIER: CATEGORIES DES INFRACTIONS

Article 21: Classification des infractions

Les infractions sont classées selon leur gravité comme suit:

- 1° crimes;
- 2° délits;
- 3° contraventions.

Article 22: Crime

Un crime est une infraction que la loi punit à titre principal d'une peine d'emprisonnement supérieure à cinq (5) ans.

Article 23: Délit

Un délit est une infraction que la loi punit à titre principal d'une peine d'emprisonnement de six (6) mois à cinq (5) ans.

Article 24: Contravention

Une contravention est une infraction que la loi punit à titre principal d'une peine d'emprisonnement inférieure à six (6) mois

Icyiciro cya 2: Ubwinjiracyaha

Ingingo ya 27: Ubwinjiracyaha buhanirwa

Ubwinjiracyaha buhanirwa iyo umugambi wo gukora icyaha wagaragajwe n'ibikorwa biboneka, bidashidikanywa by'intangiriro y'icyaha, bigamije gushyigikira ko gikorwa, nyuma bigahagarikwa, bikabuzwa kugera ku cyifuzo cyangwa bikazitirwa n'impamvu zidakomoka ku bushake bwa nyir'ugukora icyaha.

Section 2: Attempt

Article 27: Punishable attempt

An attempt is punishable when the plan to commit an offence has been demonstrated by observable and unequivocal acts constituting the beginning of the offence meant to enable the commission and that were suspended or failed in their purpose only because of circumstances beyond the offender's control.

Section 2 : Tentative

Article 27: Tentative punissable

La tentative est punissable lorsque la résolution de commettre une infraction a été manifestée par des actes extérieurs non équivoques, constituant le commencement de la commission de l'infraction, ayant pour objectif de favoriser sa consommation et ayant suspendus ou empêchés par des circonstances indépendantes de la volonté de l'auteur.

Ingingo ya 28: Ihanwa ry'ubwinjiracyaha mu gihe umugambi wo gukora icyaha utagezweho

Ubwinjiracyaha burahanirwa n'ubwo icyari cyagenderewe kitashoboye kugerwaho bitewe n'impamvu nyir'ugukora icyaha atashoboye kumenya.

Ingingo ya 29: Kwigarura k'uvari ugendereye gukora icyaha

Iyo uwagendereye gukora icyaha yigaruye ku bushake bwe ntahanwa, keretse iyo ibyo yamaze gukora ubwabyo ari icyaha.

Article 28: Punishable attempt when the objective is not achieved

An attempt shall be punishable even if the objective is not achieved on account of a circumstance unknown to the offender.

Article 28: Répression d'une tentative lorsque le but recherché n'est pas atteint

La tentative est punissable même si le but recherché n'est pas atteint en raison d'une circonstance de fait ignorée par l'auteur.

Article 29: Voluntarily withdraw of the intention to commit an offence

If a person who attempts to commit an offence voluntarily withdraws the intention to commit an act, he/she may be punished only if the acts already committed constitute an offence.

Article 29: Renonciation volontaire à l'action de commettre une infraction

Si l'auteur de la tentative renonce volontairement à l'action, il n'encourt des peines que si les actes déjà commis constituent par eux-mêmes une infraction.

INTERURO YA IV: ABAHANWA

UMUTWE WA MBERE: ABANTU KU GITI CYABO

Icyiciro cya mbere: Uburyozwacyaha

Ingingo ya 96: Igihe habaho uburyozwacyaha

Umuntu aryozwa icyaha yakoze ubwe.

Uretse igihe hari itegeko ribiteganya ukundi, hahanwa umuntu wakoze icyaha yabigambiriye.

Uwakoze icyaha yabigambiriye ni uwagikoze abizi kandi abishaka.

Nyamara, iyo itegeko ribiteganya habaho icyaha iyo umuntu yagize uburangare, ubwitonzi buke cyangwa ubushishozi buke.

Ingingo ya 97: Abaryozwa icyaha

Icyaha kiryoza uwagikoze, uwafatanyije na we kugikora n'icyitso cye.

TITLE IV: PUNISHABLE PERSONS

CHAPTER ONE: NATURAL PERSONS

Section One: Criminal liability

Article 96: Occurrence of criminal liability

Criminal liability is personal.

Unless otherwise provided by the law, only a person who intentionally commits an offence shall be liable to a penalty.

A person who commits an offence intentionally is one who commits it consciously and willingly.

However, where provided by the law, an offence occurs in case of recklessness, negligence or carelessness.

Article 97: Persons who are criminally liable

An offender, co-offender and accomplice are criminally liable.

TITRE IV: PERSONNES PUNISSABLES

CHAPITRE PREMIER: PERSONNES PHYSIQUES

Section première: Responsabilité pénale

Article 96: Cas dans lesquels il ya responsabilité pénale

La responsabilité pénale est personnelle.

Sauf disposition contraire de la loi, est seul punissable celui qui commet intentionnellement une infraction.

Commet intentionnellement une infraction celui qui la commet avec conscience et volonté.

Toutefois, lorsque la loi le prévoit, il y a infraction en cas d'imprudence, de négligence ou d'inattention.

Article 97: Personnes pénallement responsables

La responsabilité pénale est encourue par l'auteur, son coauteur et son complice.

Ingingo ya 98: Ibisobanuro by'amagambo

Muri iri tegeko ngenga, amagambo akurikira asobanura:

1° **uwakoze icyaha:** ni uwagikoze ubwe;

2° **umufatanyacyaha:** ni uwafatanyije ku buryo butaziguye n'uwakoze icyaha;

3° **icyitso:** ni uwafashije uwakoze icyaha mu byagiteguye, mu byoroheje imikorere yacyo cyangwa mu byakinonosoye kandi yarabikoze abizi, cyangwa uwoheje uwakoze icyaha.

Yitwa kandi icyitso uwahishe inkozi z'ibibi cyangwa uwazifashije guhisha mu buryo buteganywa mu ngingo ya 327 y'iri tegeko ngenga.

Ingingo ya 99: Ihanwa ry'icyitso

Icyitso ntigihanwa kimwe n'uwakoze icyaha cyangwa uwafatanyije na we kugikora keretse igihe:

1° itegeko ribiteganya ukundi;

Article 98: Definitions of terms

For the purpose of this Organic Law, the following terms mean:

1° **offender:** a person who commits an offence;

2° **co-offender:** a person who directly cooperates in the commission of an offence;

3° **accomplice:** a person knowingly aids or abets the offender in preparing, facilitating or committing the offence, or a person who incites the offender.

A person is also considered an accomplice if he/she harbours an offender or aids him/her in the concealing under conditions provided under Article 327 of this Organic Law.

Article 99: Punishment of an accomplice

The accomplice is not subject to the same penalty as the offender or co-offender, except in cases where:

1° the law provides otherwise;

Article 98: Définitions des termes

Au sens de la présente loi organique, les termes suivants signifient :

1° **auteur :** celui qui a personnellement commis l'infraction ;

2° **coauteur :** celui qui a coopéré directement à commettre l'infraction ;

3° **complice :** celui qui, en connaissance de cause a aidé l'auteur de l'infraction dans les faits qui l'ont préparée, facilitée ou qui ont abouti à sa consommation, ou celui qui a incité l'auteur de l'infraction.

Est aussi complice, celui qui cache un malfaiteur ou l'aide dans le recel dans les conditions prévues à l'article 327 de la présente loi organique.

Article 99: Répression d'un complice

Le complice n'est pas passible des mêmes peines que l'auteur ou le coauteur, sauf:

1° dans le cas où la loi en dispose autrement;

2° umucamanza abona ko uruhare rw'icyitso mu gukora icyaha rungana cyangwa ruruta urwa gatozi.

Icyitso gishobora gukurikiranwa n'ubwo icyaha kitashoboye gukurikiranwa ku wagikoze kubera impamvu zimureba ku gitit cye nk'urupfu, ibisazi cyangwa kutamenyekana.

Icyiciro cya 2: Impamvu zituma hatabaho uburyozwacyaha

Ingingo ya 100: Umwana utarageza ku myaka cumi n'iné (14) y'amavuko

Umwana utarageza ku myaka cumi n'iné (14) y'amavuko ntaryozwa icyaha.

Ingingo ya 101: Ushinjwa arwaye ibisazi

Nta buryozwacyaha bubaho iyo ushijwa yari arwaye ibisazi mu gihe yakoraga icyaha.

Icyakora, uwitesheje ubwenge yabishatse mu gihe cyo gukora icyaha aryozwa icyaha yakoze n'ubwo yaba yaritesheje ubwenge atagambiriye gukora icyaha.

2° the judge in his/her discretion finds that the accomplice's responsibility in the commission of the offence is the same as or greater than that of the principal offender.

The accomplice may be prosecuted even if criminal action cannot be instituted against the offender due to personal reasons like death, insanity or failure to identify him /her.

Section 2: Grounds for criminal irresponsibility

Article 100: A child under the age of fourteen (14) years

A child who is under the age of fourteen (14) years shall not be criminally liable.

Article 101: Insanity of the accused

There shall be no criminal liability when the accused was suffering from insanity during the commission of the offence.

However, a person who has voluntarily deprived him/herself of the use of his/her mind during the commission of the offence shall remain criminally liable, even if such

2° lorsque, d'après l'appréciation du juge, la responsabilité du complice dans la commission de l'infraction est la même ou dépasse celui de l'auteur principal.

Le complice peut être poursuivi même si l'action publique ne peut pas être exercée contre l'auteur pour des causes qui sont personnelles à celui-ci, telles que la mort, la démence ou la non- identification.

Section 2: Causes d'irresponsabilité pénale

Article 100: Enfant âgé de moins de quatorze (14) ans

Un enfant âgé de moins de quatorze (14) ans est pénalement irresponsable.

Article 101: Etat de démence du prévenu

Il n'y a pas de responsabilité pénale lorsque le prévenu était en état de démence au moment de la commission de l'infraction.

Toutefois, celui qui s'est volontairement privé de l'usage de ses facultés mentales au moment de la commission de l'infraction, demeure pénalement responsable, même si

Umuntu ukora umurimo yabujijwe kubera impamvu zavuzwe mu gika cya 1 n'icya 2 by'iyi ngingo, ahanishwa igihano cy'igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7).

Ingingo ya 168: Kwamamaza ibikoresho byo gukuramo inda

Umuntu wese wamamaza, akoreshje uburyo ubwo ari bwo bwose, imiti, ibikoresho cyangwa ibindi bivugwaho ubushoboz bwo gukuramo inda, ahanishwa igifungo kuva ku mezi atandatu (6) kugeza ku myaka ibiri (2) n'ihazabu y'amafaranga y'u Rwanda kuva kuri miliyoni imwe (1.000.000) kugeza kuri miliyoni eshatu (3.000.000) cyangwa kimwe gusa muri ibyobihano.

UMUTWE WA IV: IBIKANGISHO BYO KUGIRIRA NABI UMUNTU

Icyiciro cya mbere: Ibikangisho bifatwa nk'iterabwoba

Ingingo ya 169: Gukangisha gukora igkorwa gifatwa nk' iterabwoba

Umuntu wese ukangisha gukora ikintu gishobora gufatwa nk'iterabwoba, ahanishwa

A person, who contravenes the provisions of Paragraphs One and 2 of this Article, shall be liable to a term of imprisonment of more than five (5) years to seven (7) years.

Article 168: Advertising means of abortion

Any person who, by any means, advertises drugs, materials and any other substances believed to induce abortion shall be liable to a term of imprisonment of six (6) months to two (2) years and a fine of one million (1,000,000) to three million (3,000,000) Rwandan francs or one of these penalties.

CHAPTER IV: THREATS TO HARM A PERSON

Section One: Threats qualifying as terrorism

Article 169: Threat to commit an act qualified as terrorism

Any person who threatens to commit an act which may be qualified as terrorism shall be

Une personne qui contrevient à l'interdiction prononcée pour des raisons visées aux alinéas premiers et 2 du présent article, est passible d'un emprisonnement de plus de cinq (5) ans à sept (7) ans.

Article 168: Publicité des moyens abortifs

Toute personne qui, par tout moyen, fait la publicité des médicaments, du matériel et d'autres substances connus pour être capables de provoquer l'avortement, est passible d'un emprisonnement de six (6) mois à deux (2) ans et d'une amende de un million (1.000.000) à trois millions (3.000.000) de francs rwandais ou de l'une de ces peines seulement.

CHAPITRE IV: MENACES D'ATTENTAT CONTRE UNE PERSONNE

Section première: Menaces qualifiées de terrorisme

Article 169: Menace de commettre un acte qualifié de terrorisme

Quiconque menace de commettre un acte pouvant être qualifié de terrorisme est

igifungo kuva ku myaka itatu (3) kugeza ku liable to a term of imprisonment of three (3) myaka itanu (5). years to five (5) years.

possible d'un emprisonnement de trois (3) ans à cinq (5) ans.

Iyo iryo kangisha ryaviriyemo abantu gupfa, ahanishwa igifungo cya burundi.

If the threat causes death of persons, he/she shall be liable to life imprisonment.

Si une telle menace a causé la mort des personnes, il est possible d'une peine d'emprisonnement à perpétuité.

Icyiciro cya 2: Ibikangisho bititwa iterabwoba

Ingingo ya 170: Ibikangisho by'amagambo

Iyo igikangisho kibaye ku gahato cyangwa kugirango habeho kwigura ari icy'amagambo, uwakoreshheje ibikangisho by'amagambo, ahanishwa igifungo kuva ku mezi abiri (2) ariko kitageze ku mezi atandatu (6) n'ihazabu y'amarafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni imwe (1.000.000) cyangwa kimwe gusa muri ibyobihano.

Iyo igikangisho cy'amagambo kitabaye ku gahato cyangwa kugira ngo habeho kwigura, igihano kiva ku mezi abiri (2) ariko kitageze ku mezi atandatu (6) n'ihazabu y'amarafaranga y'u Rwanda kuva ku bihumbi ijana (100.000) kugeza ku bihumbi magana atanu (500.000) cyangwa kimwe gusa muri ibyobihano.

Section 2: Threats which do not qualify as terrorism

Article 170: Verbal threats

If the threat accompanied by an order or condition is verbal, the offender shall be liable to a term of imprisonment of at least two (2) months but less than six (6) months and a fine of five hundred thousand (500,000) to one million (1,000,000) Rwandan francs or one of these penalties.

If a verbal threat is not accompanied by an order or condition, the offender shall be liable to a term of imprisonment of at least two (2) months but less than six (6) months and a fine of one hundred thousand (100,000) to five hundred thousand (500,000) Rwandan francs or one of these penalties.

Section 2: Menaces non qualifiées de terrorisme

Article 170: Menaces verbales

Si la menace faite avec ordre ou sous condition est verbale, l'auteur est possible d'un emprisonnement d'au moins deux (2) mois mais inférieur à six (6) mois et d'une amende de cinq cent mille (500.000) à un million (1.000.000) de francs rwandais ou de l'une de ces peines seulement.

Si la menace verbale n'est pas faite avec ordre ou sous condition, l'auteur est possible d'un emprisonnement d'au moins deux (2) mois mais inférieur à six (6) mois et d'une amende de cent mille (100.000) à cinq cent (500.000) francs rwandais ou de l'une de ces peines seulement.

Ingingo ya 171: Ibikangisho by'amarenga, ibimenyetso, amashusho cyangwa urwibutso

Iyo igikangisho kibaye hakoreshejwe amarenga, ibimenyetso, amashusho cyangwa urwibutso kigambiriye inabi ku bantu cyangwa ku bintu byabo, ugikoresheje ahanishwa igifungo kuva ku mezi atandatu (6) kugeza ku myaka ibiri (2) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni ebyiri (2.000.000) cyangwa kimwe gusa muri ibyobihano.

Article 171: Threat by gestures, signs, images or a symbol

When the threat by gestures, signs, images or symbol is carried out against persons or their property, the offender shall be liable to a term of imprisonment of six (6) months to two (2) years and a fine of five hundred thousand (500,000) to two million (2,000,000) Rwandan francs or one of these penalties.

Article 171: Menace par gestes, signes, images ou symbole

Lorsque la menace par gestes, signes, images ou symbole a pour intention l'attentat contre les personnes ou leurs biens, l'auteur est passible d'un emprisonnement de six (6) mois à deux (2) ans et d'une amende de cinq cent mille (500.000) millions à deux millions (2.000.000) de francs rwandais ou de l'une de ces peines seulement.

Ingingo ya 172: Ibikangisho bikoresheje inyandiko

Umuntu wese, mu nyandiko itariho izina rye cyangwa iriho umukono, ukangisha ku gahato cyangwa kugira ngo habeho kwigura, kugirira nabi abantu cyangwa kubavutsa ibyabo, ahanishwa igifungo kuva ku mwaka umwe (1) kugeza ku myaka itatu (3) n'ihazabu y'amafaranga y'u Rwanda kuva kuri miliyoni imwe (1.000.000) kugeza kuri miliyoni eshatu (3.000.000) cyangwa kimwe gusa muri ibyobihano.

Article 172: Written threats

Any person who, through an anonymous or signed writing, carries out a threat, whether accompanied by an order or condition, of endangering the life of persons or of depriving them of their property, shall be liable to a term of imprisonment of one (1) year to three (3) years and a fine of one million (1,000,000) to three million (3,000,000) Rwandan francs or one of these penalties.

Article 172: Menaces écrites

Toute personne qui, par un écrit anonyme ou signé, avec ordre ou sous condition menace d'attenter aux personnes ou de les priver de leurs biens, est passible d'un emprisonnement d'un (1) an à trois (3) ans et d'une amende d'un million (1.000.000) à trois millions (3.000.000) de francs rwandais ou de l'une de ces peines seulement.

Iyo igikangisho kitabaye ku gahato cyangwa kugira ngo habeho kwigura, ighano kiba igifungo kuva ku mezi atandatu (6) kugeza

If the threat is not accompanied by any order or condition, the penalty shall be a term of imprisonment of six (6) months to one (1)

Si la menace n'est accompagnée d'aucun ordre ou condition, la peine est un emprisonnement de six (6) mois à un (1) an

ku mwaka umwe (1) n'ihazabu y'amafaranga y'u Rwanda kuva bihumbi magana atanu (500.000) kugeza kuri miliyoni imwe (1.000.000) cyangwa kimwe gusa muri ibyo bihano.

Ingingo ya 173: Gukangisha gusebanya

Gukangisha gusebanya ni igikorwa cyo kubona umukono ku nyandiko, ukwemera cyangwa uguhakana inshingano, uguhakana ibanga, uguhabwa ibivunja amafaranga cyangwa ikindi icyo ari cyo cyose hakoreshejwe gukangisha, gutangaza cyangwa kugereka ku muntu ibantu bishobora kumutesha agaciro cyangwa icyubahiro.

Ingingo ya 174: Igihano cy'icyaha cyo gukangisha gusebanya

Umuntu wese ukoze icyaha cyo gukangisha gusebanya, ahanishwa igifungo kuva ku mezi atandatu (6) kugeza ku mwaka umwe (1) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi ijana (100.000) kugeza ku bihumbi magana atatu (300.000) cyangwa kimwe gusa muri ibyo bihano.

Iyo uwakoze icyaha cyo gukangisha gusebanya ashyize ibikangisho bye mu bikorwa, igihano kiba igifungo kuva ku

year and a fine of five hundred thousand (500,000) to one million (1, 000,000) Rwandan francs or one of these penalties.

Article 173: Blackmail

Blackmail shall mean the threat of reporting and attributing to someone facts that could damage their honour or reputation as a means to obtain from them signature, commitment, waiver of obligations, disclosure of secret, remittance of funds, securities or any property whatsoever.

Article 174: Penalty for blackmail

Any person who commits blackmail shall be liable to an imprisonment of six (6) months to one (1) year and a fine of one hundred thousand (100,000) to three hundred thousand (300,000) Rwandan francs or one of these penalties.

352

et une amende de cinq cent mille (500.000) à un million (1.000.000) de francs rwandais ou de l'une de ces peines seulement.

Article 173: Chantage

Le chantage est le fait d'obtenir, par menace de rapporter, d'imputer à quelqu'un des faits susceptibles de porter atteinte à son honneur ou à sa réputation, soit une signature, un engagement ou une renonciation, soit la révélation d'un secret, soit la remise de fonds, de valeurs ou d'un bien quelconque.

Article 174: Peine pour chantage

Toute personne qui commet le chantage est passible d'un emprisonnement de six (6) mois à un (1) an et d'une amende de cent mille (100.000) à trois cents mille (300.000) francs rwandais ou de l'une de ces peines seulement.

When the person who has committed blackmail has executed his/her threats, he/she shall be liable to a term of imprisonment of

Lorsque la personne qui a commis le chantage exécute ses menaces, la peine est un emprisonnement d'un (1) an à trois (3)

mwaka umwe (1) kugeza ku myaka itatu (3) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atatu (500.000) kugeza kuri miliyoni ebyiri (2.000.000) cyangwa kimwe gusa muri ibyo bihano.

Ingingo ya 175: Gutinya ishyirwa mu bikorwa ryo gukora icyaha

Iyo hari impamvu zo gutinya ko uwakangishije gukora icyaha gikomeye cyangwa icy'ubugome yashyira mu bikorwa imigambi ye mibisha, umucamanza ashobora, abisabwe n'Ubushinjacyaha gusaba ukurikiranywe kwemerera imbere ye ko atazakora icyo cyaha no kumusaba kubitangira ingwate ishobora kuba amafaranga cyangwa undi mutungo.

Iyo aramutse yanze gukora ibyo ategetswé mu gihe cyagenwe, umucamanza ashobora kubimuhatira amufatira icyemezo cyo gufungwa mu gihe kingana no kuva ku mezi abiri (2) ariko kitageze ku mezi atandatu (6) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi mirongo itanu (50.000) kugeza ku bihumbi magana atatu (300.000) cyangwa kimwe gusa muri ibyo bihano.

Iyo ukurikiranywe akoze icyaha yari yaragambiriye mu gihe cy'emyaka itatu (3) ibarwa uhereye igithe ingwate yatangiwe,

one (1) year to three (3) years and a fine of five hundred thousand (500,000) to two million (2, 000,000) Rwandan francs or one of these penalties.

Article 175: Fear that there may be the commission of an offence

If there are reasons to fear that the person who threatens to commit a felony or misdemeanour may commit it, the judge may, upon request of the Public Prosecution, request the prosecuted person to confess that he/ she shall not commit such an offence and ask him/her to furnish a bail either in cash or any other property.

If the accused refuses to do what was required within the prescribed period, the judge may compel him/her to do it by sentencing him/ her to a term of imprisonment of at least two (2) months but less than six (6) months and a fine of fifty thousand (50,000) to three hundred (300,000) Rwandan francs or one of these penalties.

If the prosecuted person commits, within a period of three (3) years from the day the bail was furnished, an offence he/she was

ans et d'une amende de cinq cent mille (500.000) à deux millions (2.000.000) de francs rwandais ou de l'une de ces peines seulement.

Article 175: Crainte qu'il puisse y avoir la consommation d'une infraction

Lorsqu'il y a lieu de craindre que celui qui a menacé de commettre un crime ou un délit ne le commette effectivement, le juge peut à la requête de l'Organe National de Poursuite, demander à la personne poursuivie d'avouer qu'il ne commettra pas cette infraction et l'astreindre à fournir une caution qui peut être l'argent ou un autre bien.

S'il refuse de faire ce qui lui a été demandé dans les délais prescrits, le juge peut le contraindre à le faire en prenant contre lui une décision d'emprisonnement d'au moins deux (2) mois mais inférieur à six (6) mois et une amende de cinquante mille (50.000) à trois cent mille (300.000) francs rwandais ou de l'une de ces peines seulement.

Lorsque la personne poursuivie commet, dans un délai de trois (3) ans à compter du jour où la caution a été fournie, une

arabihanirwa kandi iyo ngwate igashyirwa mu mutungo wa Leta.

Iyo mu gihe cyavuzwe mu gika kibanziriza iki ukurikiranywe atagize icyo akora, ingwate arayisubizwa.

UMUTWE WA V: IBINDI BIKORWA BIBUJIJWE

Ingingo ya 176: Iyicarubozo

Muri iri tegeko ngenga, iyicarubozo risobanura igikorwa icyo ari cyo cyose kibabaza umubiri cyangwa ubwenge, cya kinyamaswa, gikoranywe ubugome cyangwa gitesha agaciro, gikozwe ku muntu ku bushake hagamijwe nko kumushakaho inkuru cyangwa ukwemera, kuryozwa igikorwa yakoze ubwe cyangwa akekwaho kuba yakoze cyangwa cyakozwe n'undi uwo ari we wese, hagamijwe kumutera ubwoba cyangwa kumushyiraho agahato cyangwa kubikorera undi n'izindi mpamvu zose zishingiye ku ivangura iryo ari ryo ryose.

determined to commit, he/she shall be punished, and the bail shall be seized for the public Treasury.

If the prosecuted person does not commit an offence within the period provided under Paragraph 3 of this Article, the bail shall be refunded.

CHAPTER V: OTHER PROHIBITED PRACTICES

Article 176: Torture

For the purposes of this Organic Law, torture means any act by which severe pain or suffering, whether physical or mental, inhuman, cruel or degrading, are intentionally inflicted on a person for such purposes as obtaining from him/her or a third person, especially information or a confession, punishing him/her of an act he/she or a third person committed or is suspected of having committed, or intimidating him/her or coercing him/her or a third person or for any other reason based on discrimination of any kind.

Icyakora, ntibiyitwa iyicarubozo, ububabare

However, pain arising from the execution of

infraction dont elle s'était résolue à commettre, elle encourt une peine et la caution est saisie au profit du Trésor Public.

Si la personne poursuivie ne commet pas d'infraction pendant le délai visé à l'alinéa 3 du présent article, sa caution lui est restituée.

CHAPITRE V: AUTRES PRATIQUES INTERDITES

Article 176: Torture

Aux termes de la présente loi organique, la torture s'entend de tout acte par lequel une douleur ou des souffrances aiguës, physiques ou mentales, inhumaines, cruelles ou dégradantes sont intentionnellement infligées à une personne aux fins notamment d'obtenir d'elle ou d'une tierce personne des renseignements ou des aveux, de la punir d'un acte qu'elle ou une tierce personne a commis ou est soupçonnée d'avoir commis, de l'intimider ou de faire pression sur elle ou d'intimider ou de faire pression sur une tierce personne ou pour tout autre motif fondé sur une forme de discrimination quelle qu'elle soit.

Toutefois, la douleur résultant de l'exécution

biteganyijwe muri iki cyiciro, urukiko rugomba gutegeka ubunyagwe bw'ibantu, indonke cyangwa indi mitungo bikomoka ku cyaha n'ibabyawe n'iyo mitungo n'izindi nyungu zose zayikomotseho cyangwa bitashobotse gusobanurirwa inkomoko yabyo yemewe n'amategeko.

Iciciro cya 7: Iyezandonke no gutera inkunga iterabwoba

Akiciro ka mbere: Ibisobanuro by'amagambo

Iningo ya 652: Iyezandonke

Muri iri tegeko ngenga, iyezandonke ni igikorwa kimwe cyangwa byinshi muri ibi bikurikira, cyakozwe bigambiriwe:

1° guhindura, kohereza cyangwa gufata umutungo, nyir'ukubikora azi ko bituruka ku cyaha gikomeye cyangwa cy'ubugome cyangwa se bituruka ku kugira uruhare muri icyo cyaha, hagamijwe guhisha, kutagaragaza inkomoko itemewe n'amategeko y'ubo mutungo cyangwa gufasha umuntu wese wagize uruhare mu ikorwa ry'icyo cyaha guhunga ubutabera;

Section, the Court must order the confiscation of property, proceeds or other assets resulting from the offence and the fruits thereof and all other resulting profits or whose origin was not legally justified.

Section 7: Money laundering and terrorism financing

Sub section One: Definitions of terms

Article 652: Money laundering

For the purpose of this Organic Law, money laundering means one or several of the following acts committed deliberately:

1° the conversion, transfer or handling of property whose perpetrator knows that they derive from a misdemeanour or a felony, or from an act of participation in such offences, for the purpose of concealing or disguising the illegal origin of the property or of assisting any person involved in the commission of such an offence to escape justice;

prévues dans la présente section, la juridiction doit décider la confiscation des biens, des produits ou autres actifs résultant de l'infraction et de leurs fruits et tous les autres bénéfices y résultant ou dont l'origine n'a pas été légalement justifiée.

Section 7: Blanchiment de capitaux et financement des actes de terrorisme

Sous-section première: Définitions des termes

Article 652: Blanchiment de capitaux

Aux fins de la présente loi organique, le blanchiment de capitaux est l'un ou plusieurs agissements énumérés ci-après et intentionnellement commis:

1° la conversion, le transfert ou la détention de biens dont l'auteur sait qu'ils proviennent d'un délit ou d'un crime ou de participation à de tels actes criminels, dans le but de dissimuler ou de déguiser l'origine illégale desdits biens ou d'aider toute personne impliquée dans la commission de cette infraction à échapper à la justice;

2° guhisha, kutagaragaza imiterere, inkomoko, ahabarizwa umutungo, kuwukoresha uko ushaka, itangwa ryawo, guhisha nyir'umutungo nyawe cyangwa uwufiteho uburenganzira, uzi neza ko uwo mutungo ari indonke ituruka ku cyaha gikomeye cyangwa cy'ubugome cyangwa uturuka ku kugira uruhare kuri ibyo byaha;

3° kugura, gutunga cyangwa gukoresha umutungo uzi ko, mu gihe cyo kuwakira, uwo mutungo ukomoka ku cyaha gikomeye cyangwa cy'ubugome cyangwa uturuka ku kugira uruhare kuri ibyo byaha;

4° kugira uruhare, kwishyira hamwe, ubwinjiracyaha, gufasha, gushuka, gutegera, korohereza cyangwa gutanga inama mu gukora igikorwa icyo ari cyo cyose mu byavuzwe muri iyi ngingo.

Haba habaye iyezandonke nubwo ibikorwa by'ibanze biganisha ku kugura, gutanga cyangwa kohereza umutungo ugamije kwezwa cyangwa gukingira ikibaba, byaba byakorewe ku butaka bw'ikindi gihugu.

2° the concealment, disguise of the true nature, origin, location, disposition, donation, the owner of the property or the person having rights on it, knowing that such a property is derived from a misdemeanour or a felony or from an act of participation in such offences;

3° acquisition, possession or use of property, knowing, at the time of reception, that such a property is derived from a misdemeanour or a felony or from an act of participation in such offences;

4° participation in, association to commit, attempts to commit, aiding, inciting, abetting, facilitating or counselling the commission of any of the acts mentioned in this Article.

Money laundering is committed even if the original acts leading to the acquisition, disposition or transfer of the property to be laundered or the protection of the offender, are carried out on the territory of a third State.

2° la dissimulation, le déguisement de la nature, de l'origine, du lieu, de la disposition, de la donation ou de la dissimulation du propriétaire de biens ou l'ayant- droit, sachant que ces biens proviennent d'un délit ou d'un crime ou de la participation à de tels actes criminels;

3° acquisition, possession ou utilisation de biens dont l'auteur sait, au moment de leur réception, qu'ils proviennent d'un délit grave ou d'un crime ou de la participation à de tels actes criminels;

4° la participation à l'un des actes visés au présent article, l'association pour commettre ledit acte, la tentative de le perpétrer, le fait d'aider, d'inciter ou de conseiller quelqu'un à le faire ou le fait d'en faciliter l'exécution.

Il y a blanchiment de capitaux même si les faits qui sont à l'origine de l'acquisition, de la disposition ou du transfert des biens à blanchir ou de la protection de l'auteur, sont commis sur le territoire d'un Etat tiers.

Ingingo ya 653: Gutera inkunga iterabwoba

Icyaha cyo gutera inkunga iterabwoba ni igikorwa gikozwe n'umuntu uwo ari we wese, akagikorera ikigo cy'iterabwoba, mu gutanga, mu gukusanya cyangwa mu gucunga amafaranga cyangwa umutungo uwo ari wo wose cyangwa mu gutanga inama agamije kubona ayo mafaranga, uwo mutungo n'ibyo bikoresho byakoreshwa cyangwa azi ko byose cyangwa igice cyabyo bigamije gukoreshwa kimwe mu bikorwa by'iterabwoba.

Akiciro ka 2: Ibihano ku cyaha cy'iyezandonke n'icyo gutera inkunga iterabwoba

Ingingo ya 654: Ibihano k'uwakoze icyaha cy'iyezandonke n'icyo gutera inkunga iterabwoba

Umuntu wese ukora icyaha cy'iyezandonke cyangwa uwo bafatanyije, bahanishwa igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7) n'ihazabu yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'umubare w'amafaranga y'iyezandonke.

Umuntu wese wakoze icyaha cyo gutera

Article 653: Financing of terrorism

An offence of financing of terrorism means an act of financing a terrorism enterprise by an individual by providing, collecting or managing funds, assets or any goods or by providing advice to that effect, with the aim of having those assets or goods utilized or knowing that they are intended to be used, entirely or partially in order to commit any of terrorism acts.

Sub-section 2: Penalties for money laundering and financing of terrorism

Article 654: Penalties for a person who commits money laundering and financing of terrorism

Any person who commits money laundering or an accomplice, shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine of two (2) to five (5) times the value of the amount of the laundered sums.

Any person, who commits terrorism

Article 653: Financement du terrorisme

L'infraction de financement du terrorisme est le financement par toute personne d'une entreprise terroriste en fournissant, en collectant ou en gérant des fonds, des valeurs ou des biens quelconques ou en donnant des conseils à cette fin, dans l'intention de voir ces fonds, valeurs ou biens utilisés ou en sachant qu'ils sont destinés à être utilisés, en tout ou partie en vue de commettre l'un quelconque des actes de terrorisme.

Sous-section 2: Peines pour blanchiment de capitaux et financement du terrorisme

Article 654: Peines applicables à l'auteur du blanchiment de capitaux et du financement du terrorisme

Toute personne qui commet le blanchiment de capitaux ou son complice, est passible d'une peine d'emprisonnement de plus de cinq (5) ans à sept (7) ans et d'une amende de deux (2) à cinq (5) fois le montant des sommes blanchies.

Toute personne qui commet l'infraction de

inkunga iterabwoba, ahanishwa igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri ebyiri (2) kugeza kuri eshanu (5) z'umubare w'amafaranga y'inkunga ye.

Ingingo ya 655: Ubufatanyacyaha mu iyezandonke no gutera inkunga iterabwoba

Umuntu wese wagize uruhare mu ishyirahamwe agamije gukora ibikorwa bivugwa mu ngingo ya 652 n'iya 653 z'iri tegeko ngenga, ahanishwa igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7) n'ihazabu yikubye inshuro kuva kuri ebyiri (2) kugeza ku icumi (10) z'umubare w'amafaranga y'inkunga ye.

Ingingo ya 656: Ibihano ku cyaha cy'yezandonke cyangwa cyo gutera inkunga iterabwoba bikozwe n'umuryango ufile ubuzimagatozi

Amasosiye, ibigo, imiryango n'amashyirahamwe bya Leta cyangwa byigenga bifite ubuzima gatozi bikoze icyaha cy'yezandonke cyangwa cyo gutera inkunga iterabwoba, bikoresheje ababihagarariye, bahanishwa ihazabu y'amafaranga y'u Rwanda ingana n'inshuro ebyiri iteganirijwe

financing, shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine, in Rwandan francs, of two (2) to five (5) times the amount of his/her financial assistance.

Article 655: Complicity in money laundering and financing of terrorism

Any person who associates with an association with intent to commit acts mentioned in Articles 652 and 653 of this Organic Law, shall be liable to a term of imprisonment of more than five (5) years to seven (7) years and a fine of two (2) to ten (10) times the amount of his/ her financial assistance.

Article 656: Penalties for money laundering or financing of terrorism committed by a legal entity

Public or private companies, enterprises, organizations or associations with legal personality which commit an offence of money laundering or financing of terrorism, through their representatives, shall be liable to a fine equal to twice the fine applicable to individuals, without prejudice to the liability

financement du terrorisme, est possible d'une peine d'emprisonnement de plus de cinq (5) ans à sept (7) ans et d'une amende, en francs rwandais, de deux (2) à cinq (5) fois le montant de son concours financier.

Article 655: Complicité dans le blanchiment de capitaux et le financement du terrorisme

Toute personne qui participe à une association en vue de la commission des faits visés aux articles 652 et 653 de la présente loi organique, est possible d'un emprisonnement de plus de cinq (5) ans à sept (7) ans et d'une amende de deux (2) à dix (10) fois le montant de son concours financier.

Article 656: Peines applicables à une personne morale pour blanchiment de capitaux ou financement du terrorisme

Les sociétés, les établissements, les organisations ou les associations de droit public ou privé dotés de la personnalité juridique qui commettent une infraction de blanchiment de capitaux ou de financement du terrorisme, par l'intermédiaire de leurs représentants, sont condamnées à une

abantu ku gitu cyabo, bitabujije ko for complicity of its representatives.
abawuhagarariye baryozwa icyaha
cy'ubufatanyacyaha.

amende égale au double de celle prévue pour les personnes physiques, sans préjudice de la condamnation de ses représentants comme complices de l'infraction.

Bitewe n'uburemere bw'ibyakozwe, uwo muryango ushobora guhanishwa kandi:

The legal entity, depending on the gravity of the events, may also be sentenced to:

- 1° kubuzwa burundu gukora mu buryo buziguye cyangwa butaziguye imirimo yihariye ijyanye n'umwuga;
- 2° guhagarikwa mu gihe kitari munsi y'imyaka itanu (5);
- 3° guseswa igihe washinzwe ugamije gukora icyaha.

1° prohibition from direct or indirect involvement in specific professional activities;

2° suspension for not less than five (5) years;

3° dissolution when established as a criminal organization.

Selon la gravité des faits commis, cette personne morale peut aussi être condamnée à:

- 1° l'interdiction à titre définitif d'exercer directement ou indirectement certaines activités professionnelles;
- 2° la suspension pour une durée de cinq (5) ans au moins ;
- 3° la dissolution lorsqu'elle a été créée pour commettre les actes criminels.

Icyemezo cy'urukiko gitanga igihano gitangazwa mu binyamakuru no mu bundi buryo bwose bukoreshwa mu itangazamakuru.

The court's decision shall published in newspapers and through other means used by the media.

La décision judiciaire de condamnation est publiée dans la presse écrite et par toute autre voie utilisée par les médias.

Iningo ya 657: Impamvu nkomezacyaha ku cyaha cy'iezandonke cyangwa gutera inkunga iterabwoba

Ibihano bivugwa mu ngingo ya 654, iya 655 n'iya 656 z'iri tegeko ngenga bishobora kwikuba kabiri:

- 1° igihe icyaha cy'ibanze gihanishwa

Article 657: Aggravating circumstances on the offence of money laundering or financing of terrorism

Penalties mentioned in Articles 654, 655 and 656 of this Organic Law may be doubled :

- 1° if the principal offence is punishable

Article 657: Circonstances aggravantes pour l'infraction de blanchiment de capitaux ou de financement du terrorisme

Les peines prévues aux articles 654, 655 et 656 de la présente loi organique peuvent être portées au double :

- 1° quand l'infraction d'origine est



[Home Page](#)

[About us](#)

[Useful links](#)

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Mon Apr 2 10:12:41 EAT 2012 [Home](#) ->[Codes and Laws of Rwanda](#) ->[Volume 3 : Judicial and Criminal Law](#) ->[Judicial Law](#) ->[Judicial procedure](#) ->[Criminal and civil Procedure](#) ->[Criminal procedure](#) ->[Law text](#) > **LAW N° 13/2004 OF 17/5/2004 RELATING TO THE CODE OF CRIMINAL PROCEDURE (O.G special No of 30/07/2004)**

Law also available in : [French](#) | [Kinyarwanda](#)

TITLE LAW N° 13/2004 OF 17/5/2004 RELATING TO THE CODE OF CRIMINAL PROCEDURE, O.G SPECIAL N° OF 30/07/2004

Modified and complemented by the Law n° 20/2006 of 22/04/2006, O.G special n° of 27 May 2006

Promulgation Date: 2004-05-17

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TABLE OF CONTENTS

[Chapter 1. PRELIMINARY PROVISIONS](#)

[Section 1. Actions arising from offences](#)

[Sub-section 1. Criminal action](#)

[Sub-section 2. Civil action](#)

[Section 2. Services responsible for prosecution](#)

[Sub-section 1. The Judicial Police](#)

[a. a\) Organisation of the Judicial Police](#)

[b. \) Responsibilities of the Judicial Police](#)

[1. Investigation by Judicial Police officers](#)

[2. Arrest and necessary conditions](#)

necessary to alter the state of the scene of the crime or remove some of the evidence.

Article 26:

A Judicial police officer interrogates suspects and records their statements. The interrogation is conducted in a language the suspect comprehends.

A Judicial police officer can as well interrogate any person presumed to have any detail to clarify, and compel him or her to give testimony, after oath, in the manner provided for by article 56 of this law. He or she can also deny any person from moving away from a specified area until a statement has been taken note of and, if necessary, to compel him or her to remain there.

Article 27:

Persons summoned by a judicial police office for investigation reasons are bound to appear before him or her. Failure to do so, he or she may issue a warrant compelling them to appear. The warrant is valid for three (3) months renewable.

Article 28:

A Judicial police officer records in his or her statement the nature and circumstances under which offences were committed, the time and place where they were committed, evidence or clues for prosecution or defence and statements of persons who were present at the time of commission or who may have any other information to give.

A statement is concluded by the following written declaration: “I hereby declare that this statement contains nothing but the truth”.

Article 29:

If a Judicial police officer, thinks that the nature of the evidence required is likely to be made up of papers and other documents and other things under the possession of the suspect or any other person, he or she can proceed to search where they are kept after obtaining a warrant from a public prosecutor.

If the prosecutor conducts search in an officer of a special profession, it shall be conducted in the presence of the person under search or his or her representative. If such a person is a member of a professional association, the search shall be conducted in presence of the representative of the association.

Article 30:

A Judicial police officer can seize property anywhere if it can be confiscated in accordance with the law, as well as any other property which can serve as evidence for the prosecution or defence. Seized property should be shown to the owner, so that he or she can acknowledge them.

A statement relating to the seizure should indicate the seized property and be signed by the person in possession and witnesses if any. In case of absence or inability of the possessor, or his refusal to sign on the statement of seizure, it shall be noted down in such a statement and the possessor shall be given a copy.

When a summon is delivered to person who neither resides nor has domicile in Rwanda but he or she served the summon in the Country of residence, it takes the usual time, but the court may extend it if deemed necessary.

Article 128:

For trials that require urgency, the President of a court can, by a ruling using an order to explain reasons and which should be served together with the summons to the accused or to the person liable for civil damages, if need be, shorten the time of eight (8) days provided for in the first paragraph of article 127, if the offence charged is a contravention or if an accused is caught red-handed, has confessed or appears to court immediately for summary trial.

Article 129:

When a summon has been sent through the post office or a messenger, the time of someone starts to run from the time when the post or messenger delivers it to the person summoned.

When summon has been posted to a determined place at the court, the time for summon starts to run on the day of the posting.

Section 3. Civil claim arising from an offence

Article 130:

A victim of an offence who wishes to sue for damages can either file an action in a criminal or civil court. However, when he or she has decided to refer the claim for civil damages in one court, he or she cannot change and lodge the same claim in a different court.

Sub-section 1. An action for civil damages lodged in a Criminal Court

a.) Basing civil damages on the prosecution's case

Article 131:

A person whose interests have been injured by a criminal offence can lodge a claim for compensation in a competent court claiming damages by way of notice brought at the same time as the criminal charges or at any moment, from the time when the case is filed to the termination of hearing by stating the claim in the court registry or in court at the time of hearing and given a certificate to the effect. When the claim is made to the court registry, it is notified to concerned parties.

Article 132:

A victim who has filed a civil action direct to a criminal court can withdraw the claim at any moment

from the time of filing to the closure of hearing by giving notice to the effect in court or in the court's registry. In that case, a court clerk informs the withdrawal to all concerned parties.

b. b. Claiming damages by way of private prosecution

Article 133:

Filing a claim for damages by way of private prosecution is a claim a victim of an offence takes to a criminal court so that the accused is punished and be ordered to pay damages equivalent to what was destroyed. The court seized shall inform the Prosecution.

Article 134:

A person who brings an action by way of private prosecution should indicate in the claim, in a precise manner the actions against the accused so that he or she can prepare defence on time and with full knowledge of the facts of his or her case.

If there are aggravating circumstances, they should also appear in the claim so that the accused can be able to defend him or her.

Article 135:

Seizing a court by way of private prosecution takes place when a criminal file was put in safe keep or when a period of six (6) months has elapsed without any action being taken by prosecution. Such a period of six (6) months starts to be counted from the time when a complaint was received by the public prosecution service or from the time when a criminal case file was received by the public prosecution service from national judicial police department.

Article 136:

A victim of an offence who seized a court without basing his or her claim on the prosecution, may, at any time withdraw his or her claim from the time he or she files it to the time of termination of the case by giving notice in the trial or in the registry of the court seized. In that later time, the court clerk shall inform the concerned parties.

However, withdrawing a civil claim, in case a victim of an offence seized a court by way of private prosecution does not hinder the trial of a criminal case.

Article 137:

A victim of the offence can file a civil action against the party liable to pay damages or any other person he or she suspects to have committed an offence without having to base the claim on the prosecution's case.

Sub-section 2. Claim for damages in a civil court

Article 138:

An injured party, without joining his or her action for recovery of damages to criminal proceedings, can sue directly in a civil court seeking to recover damages for injury arising from the offence. When a civil action which is based on a criminal offence is brought separately from criminal proceedings, the civil action is suspended as long as judgment in the criminal proceedings has not been delivered, if the criminal case was brought before or after the civil proceedings have commenced.

However, when there is no complaint of a criminal offence lodged in the public prosecution service or in court, the trial of a civil claim proceeds in a civil court by following rules of civil procedure.

Section 4. Attendance of parties in Court**Article 139:**

In felonies and misdemeanours, an accused should appear in person. However, when there are strong reasons prohibiting a person from appearing, he or she can be represented by a duly authorised agent.

In contraventions, an accused can be represented by a counsel except when a Judge or Magistrate requires his or her personal appearance.

Article 140:

A party liable to pay damages and the civil party can appear in person or through advocates.

However, at any stage of the proceedings, a court can order personal appearance of a party to a case.

An order for the personal presence of a party as well as the day of appearance is notified to the party by a court clerk.

Section 5. Trial procedures**Article 141:**

In case the court is seized, before the date of hearing, its President, upon request by one of the parties or suo motto, if the complainant has no capacity to sue, has no counsel or any other legal counsel to represent him or her, can examine or order for the examination of the cost of destroyed property, record or order the recording of statements, do or order for the any other matter which need to be completed to be done.

Section 6. The Trial

ITEGEKO N° 55/2007 RYO KUWA
30/11/2007 RIGENGA BANKI NKURU Y'U
RWANDA

LAW N° 55/2007 OF 30/11/2007
GOVERNING THE CENTRAL BANK OF
RWANDA

LOI N° 55/2007 DU 30/11/2007
REGISSANT LA BANQUE NATIONALE
DU RWANDA

ISHAKIRO

TABLE OF CONTENTS

INTERURO YA MBERE:

TITLE ONE: GENERAL PROVISIONS

Ingingo ya mbere: Inyito n'imiterere

Article One: Name and nature

Ingingo ya 2: Imari shingiro

Article 2: Capital

Ingingo ya 3: Imiterere y'umwihariko

Article 3: Special legal status

Ingingo ya 4: Icyicaro, amashami, imboni
n'ihagararirwa

Article 4: Headquarters, branches,
correspondents and representation

Ingingo ya 5: Inshingano

Article 5: Missions

Ingingo ya 6: Imirimo

Article 6: Duties

Ingingo ya 7: Imenyekanisha ry'ingamba za
politiki y'ifaranga

Article 7: Publicising strategies of the
monetary policy

INTERURO YA II:

TITLE II: ORGANS OF MANAGEMENT AND SUPERVISION

Ingingo ya 8: Inzego z'Ubuyobozi

Article 8: Administrative Organs

TABLE DES MATIERES

TITRE PREMIER:

DISPOSITIONS GENERALES

Article premier: Dénomination et statut

Article 2: Capital

Article 3: Statut juridique particulier

Article 4: Siège, succursales, Correspondants
et Représentants

Article 5: Missions

Article 6: Fonctions

Article 7: Publication des stratégies de la
politique monétaire

TITRE II: ORGANES DE DIRECTION ET DE SURVEILLANCE

Article 8: Organes Administratifs

Ingingo ya 5: Inshingano

Banki ifite inshingano z'ibanze zikurikira:

- 1° kurwanya ihindagurika ry'ibiciro;
- 2° gushyiraho no kubungabunga imikorere ihamye y'inzezo z'imari mu irushanwa risesuye;
- 3° kunganira politiki z'ubukungu za Guverinoma, bitabangamiye inshingano ebyiri ziteganywa mu gace ka 1° n'aka 2°.

Article 5: Missions

The main missions of the Bank shall be:

- 1° to ensure and maintain price stability;
- 2° to enhance and maintain a stable and competitive financial system without any exclusion;
- 3° to support Government's general economic policies, without prejudice to the two missions referred to in Paragraphs 1° and 2° above.

Article 5: Missions

La Banque a pour missions principales:

- 1° d'assurer et de maintenir la stabilité des prix;
- 2° de favoriser et de maintenir un système financier stable et compétitif sans exclusion aucune;
- 3° d'appuyer les politiques économiques générales du Gouvernement, sans porter préjudice aux deux missions définies aux points 1° et 2°.

Ingingo ya 6: Imirimo

Kugira ngo irangize inshingano ziteganywa mu ngingo ya 5, Banki ikora imirimo ikurikira:

- 1° kugena no gushyira mu bikorwa politiki yerekeye ifaranga;
- 2° gutunganya, kugenzura isoko ry'ivunjisha no gushyiraho amabwiriza rusange arigenga;
- 3° kugenzura no gushyiraho amabwiriza rusange agenga ibikorwa by'ibigo by'imari, muri byo harimo amabanki, ibigo by'imari iciriritse, ibigo by'ubwishingizi, ibigo by'ubwiteganyirize bw'abakozi, ibigo by'ishoramari rusange hamwe n'ibigega by'ubwiteganyirize;

Article 6: Duties

For the Bank to achieve its mission specified in Article 5, it shall perform the following duties:

- 1° to define and implement the monetary policy;
- 2° to organise, supervise and regulate the foreign exchange market;
- 3° to supervise and regulate the activities of financial institutions notably banks, micro finance institutions, insurance companies, social security institutions, collective placement companies and pension funds institutions;

Article 6: Fonctions

Les fonctions de la Banque dans la réalisation des missions définies à l'article 5 sont:

- 1° définir et mettre en œuvre la politique monétaire;
- 2° organiser, superviser et réglementer le marché des changes;
- 3° superviser et réglementer les activités des institutions financières, notamment les banques, les institutions de micro-finance, les organismes de sécurité sociale, les entreprises d'assurances, les organismes de placement collectifs et les fonds de pension;

4° kugenzura no gushyiraho amabwiriza rusange agenga uburyo bwo kwishyurana;
5° gukora no gucunga ifaranga;
6° kubika no gucunga amafaranga y'Ighugu yazigamiwe kuvunja andi;
7° kuba Umubitsi wa Leta;
8° kurangiza undi murimo wose ihabwa n'iri tegeko cyangwa n'irindi tegeko.

4° to supervise and regulate payment systems;
5° to mint and manage money;
6° to hold and manage official foreign exchange reserves;
7° to act as State Cashier;
8° to carry out any other task that this Law or any another Law may assign to it.

4° superviser et réglementer les systèmes de paiement;
5° émettre et gérer la monnaie;
6° détenir et gérer les réserves officielles de change;
7° servir de Caissier de l'Etat;
8° exécuter toute autre tâche que la présente loi ou une autre loi lui assignerait.

Iningo ya 7: Imenyekanisha ry'ingamba za politiki y'ifaranga

Mu buryo bw'ingarukagihe, Banki itangariza rubanda ingamba za politiki y'ifaranga n'uburyo bwo kuzishyira mu bikorwa.

Ibisabwe na Guverinoma cyangwa se ibyibwirije, Banki itanga igitekerezo ku miterere y'imari mu Gihugu ikanerekana uburyo ibona byagenda neza. Igitekerezo cya Banki ku miterere y'ifaranga, ku buryo inguzanyo zitangwa no ku bukungu muri rusange gisabwa buri gihe iyo Guverinoma ishaka gufata icyemezo cyerekeranye n'ifaranga cyangwa n'imari.

INTERURO YA II: INZEGO Z'UBUYOBOZI N'UBUGENZUZI

Iningo ya 8: Inzego z'Ubuyobozi

Inzego z'Ubuyobozi za Banki ni izi zikurikira:

Article 7: Publicising strategies of the monetary policy

The Bank shall periodically communicate to the public the strategies of the monetary policy and the ways of implementing them.

At the request of the Government or on its own initiative, the Bank shall make known its opinion on the domestic financial situation of the country and propose appropriate measures to take. The opinion of the Bank on the status of franc accesson credit and the economy in general shall particularly be required in the event of any monetary or financial measure envisaged by the Government.

TITLE II: ORGANS OF MANAGEMENT AND SUPERVISION

Article 8: Administrative Organs

The Bank shall have the following administrative organs:

Article 7: Publication des stratégies de la politique monétaire

La Banque communique périodiquement au public les stratégies de la politique monétaire et l'état de leur mise en œuvre.

A la demande du Gouvernement ou à sa propre initiative, la Banque fait part de son avis sur la situation financière intérieure du pays et suggère les mesures appropriées pour y faire face. L'avis de la Banque sur la situation de la monnaie, du crédit et de l'économie en général est notamment requis à l'occasion de toute mesure d'ordre monétaire ou financier envisagée par le Gouvernement.

TITRE II: ORGANES D'ADMINISTRATION ET DE SURVEILLANCE

Article 8: Organes administratifs

Les organes administratifs de la Banque sont:

cyangwa inguzanyo

Hakurikijwe amategeko ariho n'amabwiriza rusange, Banki ishobora guha amabanki n'ibindi bigo by'imari ishinzwe kugenzura umwenda cyangwa inguzanyo hakurikijwe imirimo iteganywa.

Iningo ya 53: Igenzura ry'ibigo by'imari

Ibigo by'imari bigenzurwa na Banki bigomba kuyiha inyandiko zose, ibisobanuro cyangwa ibyo bishingiraho mu mirimo yabyo ibona ko ari ngombwa mu gusuzuma imiterere yabyo. Bigomba kuyimenesha ingaruka zaturuka ku mirimo yabyo kimwe n'ingorane mu kwishyurwa Banki ihuriza hamwe.

Kudatanga ibisobanuro cyangwa gutanga ibisobanuro bitari byo bahanishwa ibihano bishyirwaho n'Inama y'Ubuyobozi imaze kumva ibyireguro bya banki cyangwa ikigo cy'imari gikurikiranyweho ikosa kandi hagakurikizwa amategeko aba asanzweho.

UMUTWE WA V: IBIKORWA KU ISOKO RY'AMAFARANGA

Iningo ya 54: Imitunganyirize y'isoko ry'amafaranga

Banki ishyiraho amabwiriza rusange agenga imitunganyirize y'isoko ry'amafaranga. Mu byo

Article 52: Granting of advances or loans

The Bank may, under the existing laws and the general rules, determine grant advances or loans to banks and other financial institutions under its supervision in considerations of planned operations.

Article 53: Control and supervision of financial institutions

Financial institutions under the supervision of the Bank shall be required to furnish the Bank with any documents, information or necessary justifications for the analysis of their position. They shall make statements of payment risks and payment incidents which are centralized at the Bank.

Any failure to disclose information or giving inaccurate information shall be liable to sanctions by the Board of Directors after hearing the bank or the financial institution concerned and according to existing laws.

CHAPTER V: INTERVENTIONS ON MONEY MARKET

Article 54: Money market organization

The Bank shall set forth rules pertaining to the

Article 52: Octroi d'avances ou de prêts

Conformément aux lois en vigueur et aux autres règlements, la Banque peut, suivant les opérations prévues, consentir des avances ou des prêts aux banques et aux autres institutions financières sous sa supervision.

Article 53: Contrôle et supervision du système financier

Les institutions financières sous la supervision de la Banque sont tenues de lui communiquer tous documents, renseignements ou justifications nécessaires à l'examen de leur situation. Elles doivent faire les déclarations des risques et des incidents de paiements dont la Banque assure la centralisation.

Toute dissimulation de renseignements ou communication de renseignements inexacts est passible de sanctions qui sont prises par le Conseil d'Administration après audition de la banque ou institution financière concernée dans le respect des lois en vigueur.

CHAPITRE V: INTERVENTION SUR LE MARCHE MONETAIRE

Article 54: Organisation du marché monétaire

La Banque édicte les règlements régissant

ITEGEKO N° 007/2008 RYO KUWA
08/04/2008 RIGENA IMITUNGANYIRIZE
Y'IMIRIMO Y'AMABANKI

ISHAKIRO

UMUTWE WA MBERE: INGINGO
RUSANGE

Icyiciro cya mbere: Ibisobanuro

Iningo ya mbere: Ibisobanuro by'amagambo

Icyiciro cya 2: Ibirebwa n'iri tegeko

Iningo ya 2: Ibyo iri tegeko rigena

Iningo ya 3: Ibindi bigo bigengwa n'iri
tegeko

UMUTWE WA II : KWEMERERWA
GUKORA

Iningo ya 4: Kubuza gukora imirimo ya
banki utabifitiye uruhusa

Iningo ya 5: Ibisabwa mbere yo kwemerera
banki nyarwanda gukora imirimo ya Banki

Iningo ya 6: Ibisabwa banki y'inymahanga
kugira ngo ifungure ishami ryayo mu Rwanda

LAW N° 007/2008 OF 08/04/2008
CONCERNING ORGANISATION OF
BANKING

TABLE OF CONTENTS

CHAPTER ONE: GENERAL
PROVISIONS

Section One: Definitions

Article One: Definitions of terms

Section 2: Scope of application of this
law

Article 2: Scope of application

Article 3: Other institutions bound to
apply this law

CHAPTER II: LICENSING

Article 4: Prohibition to carry out
banking activities without a license

Article 5: Prerequisite for licensing a
Rwandese bank

Article 6: Conditions for licensing a
foreign bank branch in Rwanda

LOI N° 007/2008 DU 08/04/2008
PORTANT ORGANISATION DE
L'ACTIVITE BANCAIRE

TABLE DES MATIERES

CHAPITRE PREMIER : DISPOSITIONS
GENERALES

Section première: Définitions

Article premier : Définitions des termes

Section 2 : Champ d'application de la
présente loi

Article 2 : Domaine d'application

Article 3 : Autres institutions devant
appliquer la présente loi

CHAPITRE II : AGREEMENT

Article 4 : Interdiction d'exercer des
activités bancaires

Article 5 : Conditions d'agrément d'une
banque rwandaise

Article 6 : Conditions d'agrément d'une
succursale d'une banque étrangère au Rwanda

Ishingiye ku Itegeko-teka n° SP1 ryo kuwa 03/03/1995 ryerekeye imitunganyirize y'isoko ry'ivunjisha;

Ishingiye ku Itegeko n° 06/1988 ryo kuwa 12/02/1988 ryerekeye itunganywa ry'amasosiyete y'ubucuruzi nk'uko ryahinduwe kugeza ubu;

Ishingiye ku Itegeko n° 50/2007 ryo kuwa 18/09/2007 rishyiraho imiterere n'imikorere y'amakoperative mu Rwanda;

Isubiye ku Itegeko n° 08/99 ryo kuwa 18/06/1999 rishyiraho amategeko agenga amabanki n'ibindi bigo by'imari.

YEMEJE:

UMUTWE WA MBERE: INGINGO RUSANGE

Iciviro cya mbere: Ibisobanuro

Ingingo ya mbere: Ibisobanuro by'amagambo

Muri iri tegeko, amagambo akurikira avuga:

Pursuant to Decree-Law n° SP1 of 03/03/1995 concerning the organisation and management of the foreign exchange market;

Pursuant to Law n° 06/1988 of 12/02/1988 concerning the organisation of business corporations, as amended to date;

Pursuant to Law n° 50/2007 of 18/09/2007 on the establishment, organisation and functioning of cooperative organisations in Rwanda;

Having reviewed the Law n° 08/99 of 18/06/1999 relating to regulations governing banks and other financial institutions.

ADOPTS:

CHAPTER ONE: GENERAL PROVISIONS

Section One: Definitions

Article One: Definitions of terms

In this Law, the following terms shall have the following meanings:

Vu le Décret-loi n° SP1 du 03/03/1995 portant organisation et gestion du marché des changes;

Vu la Loi n° 06/1988 du 12/02/1988 portant organisation des sociétés commerciales, telle que modifiée à ce jour ;

Vu la Loi n° 50/2007 du 18/09/2007 portant création, organisation et fonctionnement des sociétés coopératives au Rwanda

Revu la Loi n° 08/99 du 18/06/1999 portant réglementation des banques et autres établissements financiers.

ADOpte :

CHAPITRE PREMIER : DISPOSITIONS GENERALES

Section première: Définitions

Article premier : Définitions des termes

Dans la présente loi, les termes repris ci-après ont la signification suivante:

1. “**Banki**” : ikigo gikora ubusanzwe imirimo yo kwakira amafaranga ya rubanda kandi kigatanga inguzanyo ku giti cyacyo. Icyakora ntibafatwa nka banki:

- a) ibigo by’imari iciriritse;
- b) amakoperative yo kuzigama no kuguriza;
- c) ibigo byakira amafaranga yo kuzigama.

2. “**Banki y’inyamahanga**”: ikigo gifite ubuzimagatozi gikomoka ku kindi kigo cyo mu mahanga cyemerewe gukora nka banki cyangwa ikigo cy’inguzanyo mu gihugu cy’inkomoko.

3. “**banki nyarwanda**” : ikigo cyose gifite ubuzima gatozi n’inkomoko yacyo mu Rwanda cyemerewe gukora nka banki hakurikijwe ibiteganywa mu ngingo ya 5 y’iri tegeko.

4. “**Umuntu ufitanye isano na banki**” : umuntu wese ku giti cye cyangwa ikigo gifite ubuzimagatozi bafite nibura mu byo bahriraho na banki kimwe mu bintu bikurikira:

- a) umuntu uri mu bagize Inama y’Ubuyobozi, ubuyobozi cyangwa umukozi mukuru wa banki;

1. “**Bank**”: an enterprise that customarily receives funds from the public and grants loans for its account. However, are not considered as bank:

- a) micro finance institutions;
- b) saving and credit cooperatives;
- c) savings collection organisations.

2. “**Foreign bank**”: a legal entity incorporated in a foreign country that is accredited as a bank or credit institution in its country of origin.

3. “**Rwandan bank**”: any legal entity incorporated in Rwanda that is accredited as a bank under article 5 of this Law.

4. “**Bank-related party**”: any natural person or legal entity that maintains with the bank at least one of the following relationships:

- a) a person who is a member of the Board of Directors or management, or is a senior official of the bank;

1. “ **Banque**” : entreprise qui, de façon habituelle, reçoit des fonds du public et accorde des crédits pour son compte propre. Toutefois, ne sont pas considérés comme banques :

- a) les institutions de micro finance;
- b) les sociétés coopératives d’épargne et de crédit;
- c) les organismes de collecte de l’épargne.

2. “ **Banque étrangère**” : une personne morale agréée née d’une entreprise étrangère reconnue comme banque ou établissement de crédit dans son pays d’origine.

3. “ **Banque rwandaise**” : toute personne morale incorporée au Rwanda qui est agréée comme banque en vertu de l’article 5 de la présente loi.

4. “**Personne apparentée à une banque**” : toute personne physique ou morale qui entretient avec la banque au moins l’une des relations suivantes :

- a) personne membre du Conseil d’Administration, de la direction ou cadre supérieur de la banque;

- b) umuntu ufile ku buryo butaziguye cyangwa buziguye imigabane igaragara muri banki;
- c) umuntu uri mu bagize Inama y'Ubuyobozi cyangwa mu bayobozi mu bigo bivugwa muri iyi ngingo mu duce twa b, g cyangwa h;
- d) uwo bashakanye, ufitanye isano itaziguye cyangwa iziguye kugeza ku gisanira cya kabiri n'umwe mu bantu bavugwa muri iyi ngingo mu duce twa a, b cyangwa c;
- e) ikigo gifite umwe mu bantu bavugwa mu duce a, b, c na d. nk'umwe mu bagize Inama y'Ubuyobozi cyangwa ubuyobozi;
- f) ikigo gifite umwe mu bantu bavugwa mu duce twa a, b, c na d , wenyine cyangwa hamwe n'abandi, ufitemo mu buryo butaziguye cyangwa buziguye byibura icumi ku ijana (10%) by' imigabane cyangwa uburenganzira bwo gutora;
- b) person who has a direct or indirect qualifying holding in the bank;
- c) person who is a member of the Board of Directors or management of an enterprise covered by b, g or h of this Article;
- d) any spouse, family member up to the second degree of any of the persons mentioned under a, b, or c of this Article;
- e) any enterprise in which any of the persons mentioned under a, b, c, or d is a member of the Board of Directors or management;
- f) any enterprise in which any of the persons mentioned under a, b, c, or d above holds directly or indirectly, alone or with others, at least ten (10%) percent of the shares or voting rights;
- b) personne détenant directement ou indirectement une participation qualifiée dans la banque;
- c) personne membre du Conseil d'Administration ou de la direction d'une entreprise visée aux litteras b, g ou h du présent article;
- d) conjoint ou parent en ligne directe ou collatérale jusqu'au deuxième degré, de l'une des personnes visées aux litteras a, b ou c du présent article;
- e) entreprise dont l'une des personnes visées aux litteras a, b, c et d est membre du Conseil d'Administration ou de la direction;
- f) entreprise dans laquelle, seule ou avec d'autres, l'une des personnes visées aux litteras a, b, c ou d détient directement ou indirectement au moins 10 % des actions ou des droits de vote;

- g) ikigo banki, yonyine cyangwa hamwe n'abandi, igenzura ku buryo butaziguye cyangwa buziguye;
- h) ikigo kigenzurwa ku buryo butaziguye cyangwa buziguye n'umuntu cyangwa n'abantu bagenzura banki.

Banki Nkuru isobanura birambuye ikoreshheje amabwiriza abantu bavugwa mu byiciro byavuzwe haruguru ndetse igihe n'uburyo bikorwamo.

5. **“imari bwite nyayo”** : amafaranga agizwe n’imari bwite y’ibanze n’imari bwite y’inyongera nk’uko biteganywa mu mabwiriza ya Banki Nkuru.

6. **“Banki Nkuru”**: Banki Nkuru y’Igihugu.

7. **“iyezandonke”**: Icyaha kigizwe na kimwe cyangwa na byinshi mu mu bikorwa bikurikira:

- g) any enterprise that the bank, alone or with others, controls directly or indirectly;
- h) any enterprise controlled directly or indirectly by an entity that controls the bank.

The Central Bank specifies by regulation any of the above-mentioned categories and its applicable modalities.

5. **“net worth”**: all funds constituted by the capital base and additional equity as defined by Central Bank regulations.

6. **“Central Bank”**: the National Bank of Rwanda.

7. **“money laundering”** : infraction consisting of one or more of the actions enumerated hereinafter:

- g) entreprise que, seule ou avec d’autres, la banque contrôle directement ou indirectement;

- h) entreprise contrôlée directement ou indirectement par une personne ou une entité qui contrôle la banque.

La Banque Centrale précise par instructions, les catégories des personnes susmentionnées ainsi que les modalités d’application.

5. **“fonds propres nets”** : ensemble des fonds constitués par les fonds propres de base et les fonds propres complémentaires tel que définis par le règlement de la Banque Centrale.

6. **“Banque Centrale”**: la Banque Nationale du Rwanda.

7. **“blanchiment de capitaux”** : infraction constituée par un ou plusieurs des agissements énumérés ci-après :

- a) guhindura cyangwa kwimura imari cyangwa ibindi bintu hagamijwe guhisha cyangwa guhishira inkomoko yabyo itemewe cyangwa gufasha umuntu uwo ari we wese wagize uruhare mu ikorwa ry'icyo cyaha gikomokamo iyo mari cyangwa ibyo bintu kudakurikiranwaho n'ubutabera ingaruka z'ibyo yakoze;
- b) guhishira cyangwa guhindura isura y'imiterere, inkomoko, ahantu imari cyangwa ibindi bintu umuntu azi inkomoko itemewe biri, uko bihari, urujya n'uruza rwabyo, cyangwa nyirabyo;
- c) kwakira, gutunga cyangwa gukoresha imari cyangwa ibintu umuntu azi inkomoko itemewe yabyo;
- d) kugira uruhare muri kimwe mu bikorwa bivugwa mu duce dutatu tubanza, kwishyira hamwe hagamijwe gukora icyo gikorwa, ubwinjira gikorwa, gufasha, gushishikariza cyangwa kugira undi inama yo kugikora cyangwa korohereza ko gikorwa.

- a) conversion or transfer of capital or other assets for purposes of hiding or disguising their illicit origin, or of helping any person involved in the commission of the crime from which said capital or assets are derived to escape the legal consequences of their actions;
- b) concealing or disguising the nature, origin, location, disposal, movement, or ownership of capital or assets known to be of illicit origin;
- c) acquisition, possession, or use of capital or assets known to be of illicit origin;
- d) participation in any of the acts mentioned in the first three preceding points, association for purposes of committing said acts, attempts to perpetrate said acts, the fact of abetting, inciting, or advising someone to commit said acts, or the fact of facilitating said acts.

- a) conversion ou transfert de capitaux ou d'autres biens dans le but de dissimuler ou de déguiser leur origine illicite ou d'aider toute personne impliquée dans la réalisation de l'infraction qui est à l'origine de ces capitaux ou de ces biens, à échapper aux conséquences de poursuite judiciaire de ses actes ;
- b) dissimulation ou déguisement de la nature, de l'origine, de l'emplacement, de la disposition, du mouvement de la propriété des capitaux ou des biens dont on connaît l'origine illicite ;
- c) acquisition, détention ou utilisation de capitaux ou de biens dont on connaît l'origine illicite ;
- d) la participation à l'un des actes visés aux trois premiers points précédents, l'association pour commettre ledit acte, les tentatives de le perpétrer, le fait d'aider, d'inciter ou de conseiller quelqu'un à le commettre ou le fait d'en faciliter l'exécution.

8. “**ubugenzuzi**”: Uburyo abantu ku git
cyabo cyangwa ibigo bifite ubuzimagatozi
bagenzuramo ikigo gifite ubuzimagatozi
bitewe n’uko:

- a) bagifitemo nibura mirongo itanu ku
ijana (50%) by’imari shingiro
cyangwa by’uburenganzira bwo
gutora;
- b) bafitemo ububasha bwo gushyiraho no
gukuraho abarenze kimwe cya kabiri
cy’abagize inama y’ubuyobozi muri
icyo kigo kandi banagifitemo
imigabane;
- c) bafite ububasha bwo gutuma ikigo
bafitemo imigabane cyafata ibyemezo
bo bishakiye bitewe n’amasezerano
bagiranye na cyo cyangwa n’ingingo
y’amategeko akigenga.

9. “**inguzanyo**”: igikorwa cy’umuntu uguriza
undi amafaranga cyangwa amwizeza
kuyamuguriza agamije ikiguzi cyangwa
agafata inshingano, mu nyungu y’uwo
abikorera, yo kumwishingira, kuba
yamwishiurira cyangwa gukoresha ubundi
buryo bw’ubwishingire bushingiye ku cyo ari
cyo.

8. “**control**”: method whereby natural
persons or legal entities exercise control
over another legal entity on account of :

- a) holding at least fifty (50) percent in
the capital or voting rights;
- b) having the right to appoint or
remove the majority of the members
of the Board of Directors of the
legal entity and at the same time are
shareholders of the legal entity;
- c) having the power to exercise a
dominant influence over a legal
entity in which they are
shareholders, pursuant to a contract
entered into with that legal entity, or
to a clause in the by-laws of said
legal entity.

9. “**credit**”: an operation whereby a person,
in exchange for compensation, lends or
promises to lend funds to another person, or
accepts in that person’s interest pledge or
use any other form of collateral taking into
account the surety’s status.

8. “**contrôle**”: méthode par laquelle les
personnes physiques ou morales contrôlent
une personne morale du fait :

- a) qu’elles en détiennent au moins
cinquante pour cent (50 %) du
capital social ou des droits de vote;
- b) qu’elles aient le droit de nommer ou
de révoquer la majorité des
membres du conseil
d’administration de la personne
morale dont elles sont actionnaires;
- c) qu’elles aient le pouvoir d’exercer
une influence dominante sur une
personne morale dont elles sont
actionnaires, en vertu d’un contrat
conclu avec celle-ci ou en vertu
d’une clause des statuts de celle-ci.

9. “**crédit**”: opération par laquelle une
personne, agissant à titre onéreux, prête ou
promet de prêter des fonds à une autre
personne ou prend, dans l’intérêt de celle-
ci, un engagement ou user de toute autre
forme de garantie en tenant compte du
statut du garant.

10. **“koperative yo kuzigama no kuguriza”:** koperative yashyiriweho kwakira amafaranga y’abanyamuryango bayo bizigamira kugira ngo abyazwe inyungu no kubaha inguzanyo no kubakorera n’indi mirimo cyangwa ibindi bikorwa by’imari hakurikijwe iri tegeko;

11. **“amafaranga abikijwe”:** amafaranga umuntu ahabwa na rubanda, bivuga ayo ahabwa n’undi muntu, yaba ari amafaranga ubwayo cyangwa se yaba impapuro zivunjwa amafaranga, uwo muntu akaba afite uburenganzira bwo kuyakoresha ku giti cye ariko agomba kuzayasubiza nyirayo;

Ntafatwa nk’amafaranga ya rubanda:

a) amafaranga aturutse ku bagize sosiyete y’abakorera ku izina rusange cyangwa amafaranga y’abatuma bagize sosiyete y’abatuma n’abatumwa, amafaranga y’abanyamuryango bafite imigabane iri hejuru ya kimwe cy’ijana cy’imari shingiro y’ibanki ;

b) amafaranga y’abagize Inama y’Ubuyobozi, abayobozi cyangwa abacungamari batangaho ingwate y’imicungire;

10. **“savings and credit cooperative”:** a cooperative established for the purpose of accepting deposits from its members in order to increase their value and provide lending and other financial services and products in accordance with this Law;

11. **“deposit”:** funds that an entity receives from the public, namely funds that the entity collects from a third party, whether or not in the form of securities, with the right to dispose of them on its own account and on the condition that they shall be returned.

The following shall not be deemed funds received from the public:

a) funds received from a general partnership or from partners in a partnership or funds received from partners or shareholders holding more than one percent (1%) of the bank’s capital;

b) funds deposited by members of the Board of Directors, managers or accountants as a guarantee of their management;

10. **“coopérative d’épargne et de crédit” :** une société coopérative agréée pour recevoir de ses membres leurs dépôts en espèces en vue de les faire fructifier et de leur fournir du crédit ainsi que d’autres services et produits financiers conformément à la présente loi ;

11. **“dépôt” :** les fonds reçus du public par une personne morale, c'est-à- dire ce qu’elle receuille d’un tiers que ce soit les numéraires intrinsèques, que ce soit les titres négociables, avec le droit d'en disposer pour son propre compte et à charge pour elle de les restituer.

Ne sont pas considérés comme fonds reçus du public :

a) les fonds obtenus des associés en nom collectif ou des commanditaires d'une société en commandite ou des fonds reçus des associés ou actionnaires détenant plus d'un pour cent (1%) du capital de la banque;

b) les fonds déposés par des administrateurs, des dirigeants ou des comptables à titre de garantie de leur gestion;

c) amafaranga yavunjwe impapuro z'inguzanyo cyangwa z'umutungo washowe cyangwa wagurijwe rubanda;

d) amafaranga yaturutse ku bugwate bw'impapuro za Leta cyangwa z'abikorera ku gitit cyabo zivunjwa amafaranga cyangwa ayagujijwe amabanki n'ibindi bigo by'imari;

e) andi mafaranga yose agenwa na Banki Nkuru.

12. **“imyenda”**: amoko yose y'inguzanyo, ifunguza ry'inguzanyo, inyandiko mpeshanguzanyo, avansi, inyandiko nyemezamwenda n'ubundi buryo nk'ubwo butangwamo cyangwa bwemererwamo inguzanyo bitangwa na banki bihabwa umukiriya, kimwe n'imigabane, ifata ry'uruhare mu mari shingiro n'ubundi buryo bwo gushora amafaranga abyara inyungu mu kigo runaka.

13. **“ikigo cy’imari”**: ikigo cyose kigamije inyungu kitari banki, gikora mu buryo busanzwe ibikorwa byose cyangwa bimwe muri ibi bikurikira:

c) funds received in exchange for bonds or equity securities issued or invested with the public;

d) funds obtained through report operation or discounts on public or private securities or in the form of loans or advances from banks or financial establishments;

e) any other type of funds defined by the Central Bank.

12. **“exposures”**: all types of credits, credit openings, letters of credit, advances, debt securities and similar forms of credits or credit commitments granted by a bank to a client, as well as shares, participation in the capital, and other types of investments in any other undertaking.

13. **“financial institution”**: any enterprise other than a bank acting with a pecuniary motive that, habitually and on its own account, carries out, in whole or in part, the following operations:

c) les fonds de contrepartie de titres d'emprunt ou de capital investis ou prêtés au public ;

d) les fonds obtenus par la mise en pension ou l'escompte d'effets publics ou privés ou sous forme de prêts ou d'avances auprès de banques ou d'établissements financiers ;

e) tout autre type de fonds définis par la Banque Centrale.

12. **“engagements”** : toutes les catégories de crédits, ouvertures de crédit, lettres de crédit, avances, titres de créance et autres formes analogues d'octroi ou d'engagement de crédit par une banque à un client, ainsi que les actions, prises de participation au capital et autres types d'investissement de fonds dans une telle ou telle autre entreprise.

13. **“établissement financier”**: toute entreprise autre qu'une banque agissant à titre onéreux qui, habituellement et pour son propre compte, effectue en tout ou en partie les opérations ci-après :

a) ibikorwa byo gutanga inguzanyo, byo kugurisha mu buryo bw'inguzanyo, by'ivunjisha, byo kwakira amafaranga yo gushora mu bikorwa bibyara inyungu;

b) gukora imirimo y'ubuhuza mu by'imari, cyane cyane nk'iyerekeye gutumwa cyangwa guhuza abandi muri byose cyangwa bimwe mu bikorwa bivugwa mu gace kabanziriza aka.

14. **“itsinda ry’abakiriya bahujwe n’inyungu”**: abantu babiri cyangwa benshi, baba abantu ku giti cyabo cyangwa ibigo bifite ubuzimagatozi bafatwa nk’abahuje inyungu kubera ko bafitanye nibura rimwe mu masano akurikira:

a) umwe agenzura undi mu buryo butaziguye cyangwa buziguye cyangwa abandi bose;

b) bagengana ku buryo iyo umwe agize ibibazo mu rwego rw’imari, undi cyangwa abandi bagira ibibazo byo kwishyura inguzanyo.

a) lending, leasing, foreign exchange, and the collection of funds that it uses in investment operations;

b) acting as an intermediary in financial transactions especially as an agent or broker, in one or more of the operations referred to in the preceding paragraph.

a) les opérations de crédit, de vente à crédit, de change et de collecte des fonds qu’elle emploie en opérations de placement ;

b) servir d’intermédiaire en opérations financières spécialement en qualité de commissionnaire ou de courtier en tout ou en partie dans les opérations visées au paragraphe précédent.

14. **“groupe de clients liés”** : deux ou plusieurs personnes, physiques ou morales considérées comme ayant un même intérêt du fait qu’elles entretiennent au moins une des relations ci-après :

a) l’une contrôle directement ou indirectement l’autre ou l’ensemble;

b) elles sont tellement interdépendantes que, si l’une rencontre des problèmes financiers, l’autre ou les autres éprouvent des difficultés de remboursement.

15. “**imyenda minini**”: imyenda umukirya cyangwa itsinda ry’abakiriya basangije ibibazo bafitiye banki, ingana nibura n’icumi ku ijana (10 %) y’imari bwite nyayo ya banki.

16. “**imari iciriritse**”: imikorere irangwa nibura na kimwe mu bikorwa bikurikira:

a) gutanga inguzanyo ku bakiriya badasanzwe bazihabwa n’amabanki cyangwa n’ibigo by’imari bisanzwe;

b) kwakira amafaranga yizigamirwa n’abakiriya badasanzwe bakorana n’amabanki cyangwa ibigo by’imari bisanzwe;

c) gutanga inguzanyo cyangwa kwakira amafaranga yizigamirwa n’abakiriya badasanzwe bakorana n’amabanki cyangwa ibigo by’imari bisanzwe.

17. “**igishoro kinini**”: amafaranga banki yashoye mu kigo runaka ahwanye nibura n’atanu ku ijana (5 %) y’imari shingiro y’icyo kigo cyangwa arengeje atanu ku ijana (5%) y’imari bwite nyayo ya banki.

15. “**large exposures**”: exposures of a client, or group of related clients to a bank, which represent at least ten per cent (10%) or more of the bank’s net worth.

16. “**micro finance**”: activity that consists of at least one of the following operations:

a) extending loans to a clientele that is not usually served by the banking system or traditional financial institutions.

b) accepting deposits from a clientele not usually served by the traditional banking system or traditional financial institutions;

c) extending loans and accepting deposits from a clientele not usually served by the traditional banking system;

17. “**major investment**”: holding by a bank in an enterprise that represents at least five percent (5%) of the equity capital of the enterprise, or a shareholding that exceeds five percent (5%) of the net worth of the bank.

15. “**engagements importants**”: engagements d’un client ou d’un groupe de clients interdépendants envers une banque, qui représentent au moins dix pour cent (10 %) des fonds propres nets de la banque.

16. “**micro finance**”: activité qui consiste au moins en l’une des opérations suivantes :

a) consentir des crédits à une clientèle non habituellement desservie par le système bancaire ou les établissements financiers classiques;

b) recevoir les dépôts en espèces d’une clientèle non habituellement desservie par le système bancaire classique ou les établissements financiers classiques;

c) consentir du crédit et recevoir l’épargne d’une clientèle non habituellement desservie par le système bancaire classique ;

17. “**placement majeur**”: participation détenue par une banque dans une entreprise qui représente au moins cinq pour cent (5%) du capital social de l’entreprise ou participation qui excède cinq pour cent (5%) des fonds propres nets de la banque.

18. “**uruhare rugaragara**”: amafaranga ashorwa mu migabane ya banki , ku buryo butaziguye cyangwa buziguye, ari yonyine cyangwa ari n’andi, ahwanye nibura n’atanu ku ijana (5%) by’imari shingiro yayo cyangwa by’uburenganzira bwo gutora bwa nyirayo cyangwa amuhesha ububasha bwo gufata ibyemezo byerekeranye n’imicungire y’iyo banki.

19. “**ikigo cyakira amafaranga yo kuzigama**”: ikigo cy’imari gifite umwihariko mu kwakira amafaranga azanywe mu buryo bwo kwizigamira, kandi kitagamije gutanga inguzanyo, ahubwo kigakoresha ayo mafaranga mu kuyashora ku isoko ry’imari.

20. “**icyitegererezo cy’ubushobozi cy’ubwisyu**”: ikigereranyo hagati y’imari bwhite nyayo n’amafaranga yo gukoresha agaragara mu ifoto y’umutungo cyangwa hanze yayo hakurikijwe uburyo bugenwa n’amabwiriza ya Banki Nkuru.

21. “**amabwiriza rusange**”: inyandiko igamije gusobanura kurushaho ibigomba kubahirizwa bikubiye muri iri tegeko, kugira ngo bishyirwe mu bikorwa. Ikurikizwa igihe cyose n’abo rireba bose kandi ikubahirizwa.

22. “**amabwiriza**”: inyandiko zigomba gukurikizwa n’umuntu umwe, benshi cyangwa ihuriro ry’abantu bafite ubuzimagatozi.

18. “**qualifying holdings**” shareholding in a bank that, directly or indirectly, alone or in conjunction with others, represents at least five percent (5%) of the equity capital or voting rights, or that makes it possible to exercise a significant influence over the management of that bank.

19. “**savings institution**”: financial institution that specializes in gathering resources in the form of savings deposits and of which the purpose is not to extend credit, but instead to use the savings for investment in the capital market.

20. “**solvency ratio**” : the relationship between net worth and all balance sheet and off-balance-sheet assets, weighted according to modalities set out by Central Bank regulations.

21. “**regulation**”: text which has the aim of developing the rules posed by the provisions of this law, in order to ensure the application of it. It applies general and obligatory.

22. “**instruction**”: text comprising an order addressed to one or more natural persons or entities.

18. “**participation qualifiée**” : participation dans une banque qui, directement ou indirectement, représente, seule ou avec d’autres, au moins cinq pourcent (5%) de son capital social ou de ses droits de vote ou qui permet d’exercer une influence significative sur la gestion de cette banque.

19. “**organisme de collecte de l’épargne**” : établissement financier spécialisé dans la collecte de ressources sous forme de dépôts d’épargne, notamment de comptes d’épargne et n’ayant pas vocation à donner des crédits, mais utilisant cette épargne pour investir sur le marché des capitaux.

20. “**ratio de solvabilité**” : rapport entre les fonds propres nets et l’ensemble des éléments d’actif du bilan et du hors bilan pondérés selon les modalités fixées par règlement de la Banque Centrale.

21. “**règlement**” : texte qui a pour objet de développer les règles posées par les dispositions de la présente loi, en vue d’en assurer l’application. Il est d’application générale et obligatoire.

22. “**instruction**” : texte contenant un ordre adressé à une ou plusieurs personnes physiques ou morales.

23.“ibipimo ntarengwa mu igenzura ry’imigabane y’abagize banki”: ikigereranyo Banki Nkuru ikoreraho igenzura ku bafite imigabane muri banki.

Iciciro cya 2: Ibirebwa n’iri tegeko

Ingingo ya 2: Ibyo iri tegeko rigena

Iri tegeko rireba amabanki. Rigena ibikurikizwa kugira ngo hakorwe imirimo y’amabanki, ibyo amabanki agomba kubahiriza n’igenzura ry’ubushishozi ry’amabanki rikorwa na Banki Nkuru.

Ingingo ya 3: Ibindi bigo birebwa n’iri tegeko

Ibiteganywa n’iri tegeko bishobora no kureba ibigo by’imari, ibigo by’imari biciriritse, amakoperative yo kuzigama no kuguriza, n’ibigo byakira amafaranga yo kuzigama, hakurikijwe amabwiriza ashyirwaho na Banki Nkuru.

23. “supervisory threshold in the shareholding of a bank”: level by which the Central Bank applies a prudential control for the detention of shares within the shareholding of a bank.

Section 2: Scope of application of this law

Article 2: Scope of application

This Law applies to banks. It sets forth the conditions on conducting banking activities, standards to which banks are subject, and the prudential controls exercised over banks by the Central Bank.

Article 3: Other institutions bound to apply this Law

The provisions of this Law may also apply to financial institutions, microfinancing institutions, cooperative savings and loan associations, and savings institutions, in accordance with instructions issued by the Central Bank.

23. “le seuil de supervision dans l’actionnariat d’une banque”: niveau à partir duquel la Banque Centrale exerce un contrôle prudentiel quant à la détention d’actions au sein de l’actionnariat d’une banque.

Section 2 : Champ d’application de la présente loi

Article 2 : Domaine d’application

La présente loi s’applique aux banques. Elle détermine les conditions d’exercice des activités de banque, les normes auxquelles les banques sont assujetties et le contrôle prudentiel des banques par la Banque Centrale.

Article 3 : Autres institutions concernées par l’application de la présente loi

Les dispositions de la présente loi peuvent également s’appliquer aux établissements financiers, aux institutions de micro finance, aux sociétés coopératives d’épargne et de crédit, et aux organismes de collecte de l’épargne, conformément aux instructions édictées par la Banque Centrale.

UMUTWE WA II : KWEMERERWA GUKORA.

Ingingo ya 4: Ibibujije mu gukora imirimo ya banki utabifitiye uruhusa

Ntawe ushobora gukora imirimo ya banki muri Repubulika y'u Rwanda atabanje kubyemererwa na Banki Nkuru.

Ntawe ushobora kwiyitirira banki cyangwa umunyebanki, nta n'ushobora gukoresha, mu rurimi urwo ari rwo rwose, inyito ya banki, umunyebanki, ikintu cyose gifitanye isano na banki cyangwa irindi jambo ryose rivuga ibikorwa bya banki haba mu izina ry'ikigo cye, mu ntego yacyo no mu kirango cyacyo cyangwa mu iyamamaza ryacyo, kitabanje kwemerwa nka banki.

Ingingo ya 5: Ibigomba kwitabwaho mbere yo kwemerera banki nyarwanda gukora imirimo ya Banki.

Kugira ngo Banki Nkuru yemerere ikigo gifite ubuzimagatozi nyarwanda gukora imirimo ya banki, igomba kureba niba cyujuje ibi bikurikira:

CHAPTER II: LICENSING

Article 4: Prohibition to carry out banking activities without licensing

No person or entity may engage in banking activity within the territory of the Republic of Rwanda without being licensed by the Central Bank.

No person or entity may, without being licensed as a bank, claim the status of bank or banker, or use in any language, in its corporate name, trade name, signage or advertising, the terms "bank," "banker," or any other term evoking any banking operation.

Article 5: Prerequisite for licensing of a Rwandan bank

The Central Bank may licence a legal entity incorporated in Rwanda as a bank, if it assesses that the following conditions are met:

CHAPITRE II : AGREMENT

Article 4 : Interdiction d'exercer l'activité de banque sans agrément

Nul ne peut exercer sur le territoire de la République du Rwanda une activité de banque sans être agréé par la Banque Centrale.

Nul ne peut, sans être agréé comme banque, se prévaloir de la qualité de banque ou de banquier, ni faire usage, en aucune langue, des termes de "banque", "banquier", "bancaire" ou de tout autre terme évoquant l'une des opérations bancaires, dans son appellation, sa raison sociale, son enseigne ou sa publicité.

Article 5 : Conditions d'agrément d'une banque rwandaise

La Banque Centrale ne peut accorder l'agrément de banque à une personne morale de droit rwandais que si elle estime que les conditions suivantes sont réunies:

1° kuba umubare muto ushoboka w'imari shingiro ushyirwaho n'amabwiriza rusange ya Banki Nkuru wa banki ishingwa washyizwe kuri konti idakorwaho mbere yo kemererwa yafunguwe mu bitabo bya Banki Nkuru.

2° kuba ikigo gisaba cyashyikirije Banki Nkuru inyandiko igaragaza ibi bikurikira:

a) ko Banki ishingwa izubahiriza ibiteganywa n'iri tegeko n'amabwiriza bya Banki Nkuru;

b) imiterere mu gihe kizaza y'imari ya banki igiye gushingwa igaragara kandi yerekana ko ubushobozi imari ishingiyeho buzatuma ibikorwa bitemganyijwe bya banki ishingwa bigerwaho;

c) ubumenyi n'uburambe bw'abagize inama y'ubuyobozi n'abayobozi bya banki igiye gushingwa. Abo bayobozi bakwiye kuba basanzwe bazwiho imikorere myiza y'akazi kandi bakwiriye kugirirwa icyizere;

d) banki ishingwa ari sosiyete y'abataziranye;

1° the minimum amount of the future bank's start-up equity capital determined by the Central Bank regulation has been deposited in an escrow account opened on the books of the Central Bank.

2° the applicant institution has submitted to the Central Bank documents which testify that:

a) the future bank will comply with the provisions of this Law as well as the Central Bank regulations;

b) projections concerning the financial status of the bank are documented and demonstrate a sound financial basis for carrying out operations envisaged by the future bank;

c) the qualifications and experience of the members of the Board of Directors and management of the future bank are relevant, and that all of these individuals are trustworthy and enjoy an impeccable professional reputation;

d) the future bank is a public limited company corporation;

1° le montant minimum du capital social d'apport de la banque en constitution tel que déterminé par règlement de la Banque Centrale a été versé sur un compte indisponible ouvert dans les livres de la Banque Centrale.

2° l'entreprise requérante a transmis à la Banque Centrale les documents attestant que:

a) la banque en constitution respectera les dispositions de la présente loi ainsi que les règlements de la Banque Centrale;

b) les projections concernant la situation financière de la banque en constitution sont documentées et démontrent une assise financière solide pour réaliser les opérations envisagées de la future banque;

c) les qualifications et l'expérience des membres du Conseil d'Administration et de la Direction de la banque en constitution sont pertinentes et que toutes ces personnes sont dignes de confiance et jouissent d'une réputation professionnelle irréprochable;

d) la banque en constitution est une société anonyme;

- e) imiterere y'uburyo bw'emicungire ya banki igiye gushingwa isobanutse neza ku buryo kuyikorera igenzura byakoroha;
- f) bene imigabane bafite uruhare rugaragara muri banki ishingwa batanga icyizere gituma imicungire yayo iba myiza kandi irangwa n'ubushishozi;
- g) imiterere, imikorere na politiki bya banki ishingwa, bikwiranye n'ibikorwa biteganywa kuzakorwa.

- e) the management structure of the future bank is sufficiently transparent to enable an effective prudential supervision;
- f) shareholders with a qualifying holding in the future bank possess the qualities necessary to ensure sound and prudent management of the future bank;
- g) the structure and administration, policies and procedures of the future bank, are appropriate for the envisaged operations.

- e) la structure de gestion de la banque en constitution est suffisamment transparente pour permettre un contrôle prudentiel efficace;
- f) les actionnaires qui détiennent une participation qualifiée de la banque en constitution présentent les qualités nécessaires pour garantir une gestion saine et prudente de la future banque;
- g) la structure et l'administration, les procédures et les politiques de gestion de la banque en constitution conviennent pour les opérations envisagées.

Ingingo ya 6: Ibisabwa banki y'inyamahanga isabwa kugira ngo ifungure ishami ryayo mu Rwanda

Hatabangamiwe iyubahirizwa ry'ingingo ya 7 y'iri tegeko, Banki Nkuru ishobora kwemerera banki y'inyamahanga gukorera imirimo y'amabanki mu Rwanda binyujije mu ishami ryayo igithe gusa igaragaje ko yujuje ibi bikurikira:

1° kuba yubahirije ibivugwa mu ngingo ya 5 y'iri tegeko;

Article 6: Conditions for licensing a foreign bank branch in Rwanda

Without prejudice to Article 7 of this Law, the Central Bank may grant licence to a foreign bank wishing to exercise banking activity in Rwanda through the intermediary of a branch office only if it determines, on the basis of sufficient evidence, that said bank meets the following conditions:

1° to comply with provisions of Article 5 of this Law;

- e) la structure de gestion de la banque en constitution est suffisamment transparente pour permettre un contrôle prudentiel efficace;
- f) les actionnaires qui détiennent une participation qualifiée de la banque en constitution présentent les qualités nécessaires pour garantir une gestion saine et prudente de la future banque;
- g) la structure et l'administration, les procédures et les politiques de gestion de la banque en constitution conviennent pour les opérations envisagées.

Article 6 : Conditions d'agrément de la succursale d'une banque étrangère au Rwanda

Sans préjudice de l'article 7 de la présente loi, la Banque Centrale ne peut accorder l'agrément à une banque étrangère qui veut exercer l'activité de banque au Rwanda par l'intermédiaire d'une succursale que si et seulement si, sur base d'indices suffisants, cette banque remplit les conditions suivantes:

1° se conformer aux dispositions de l'article 5 de la présente loi;

Ingingo ya 9: Ibikorwa bibangikanwa n'imirimo ya banki

Banki zimaze kwemererwa gukora na Banki Nkuru zishobora kubangikanya imirimo ya banki n'ibikorwa bikurikira:

- 1° gutanga ingwate izo ari zo zose z'amafaranga;
- 2° gutanga, gucunga, kugura cyangwa kugurisha, zibyikorera cyangwa zibikorera abakiriya, ibikoreshwu ku isoko ry'amafaranga cyangwa ku isoko ry'imari;
- 3° gutanga serivisi zerekanye no kwishyurana;
- 4° gucunga imari;
- 5° gukora ibikorwa by'ivunjisha;
- 6° gukora ibijyanye n'inyandiko z'agaciro k'amafaranga;
- 7° gukora cyangwa gucunga ibyifashishwa mu kwishyurana nka sheki, ikarita zo kwishyurana, sheki zo mu ngendo mu mahanga n'izindi nyandiko zifashishwa mu mabanki;
- 8° guhagararira banki cyangwa ikigo cy'imari;

Article 9: Transactions related to banking activities

After licencing by the Central Bank, banks may, concomitantly with their banking activities, conduct the following transactions:

- 1° issuing monetary guarantees of all types;
- 2° issuing, managing, purchase, or sale of money market or capital market instruments, on their own account or on behalf of clients;
- 3° providing payment services;
- 4° providing financial management services;
- 5° conducting foreign exchange transactions;
- 6° conducting securities transactions;
- 7° issuing or administrating means of payment, such as checks, payment cards, travelers' checks or bank drafts;
- 8° representing a bank or financial institution;

Article 9 : Opérations connexes à l'activité de banque

Après agrément de la Banque Centrale, les banques peuvent, concomitamment à leurs activités de banque, effectuer les opérations suivantes:

- 1° émettre des garanties monétaires de toute nature;
- 2° émettre, gérer, acheter ou vendre, pour son propre compte ou celui de ses clients des instruments du marché monétaire ou du marché des capitaux;
- 3° assurer la prestation de services de paiement;
- 4° assurer la gestion financière;
- 5° effectuer les opérations de change;
- 6° effectuer les opérations sur les valeurs mobilières;
- 7° émettre ou administrer des moyens de paiement tels que les chèques, cartes de paiement, chèques de voyage et les traites bancaires;
- 8° représenter une banque ou un établissement financier;

- 9° kubikira abandi inyandiko z'agaciro k'amafaranga;
- 10° gukora ibikorwa by'ikodesha gurishwa;
- 11° gukora ikindi gikorwa kigenwa na Banki Nkuru.

Banki Nkuru ishobora kugena ikoreshje amabwiriza rusange ibya ngombwa byuzuzwa kugira ngo ibikorwa bivugwa hejuru bikorwe cyangwa bigabanywe.

Iningo ya 10: Uburyo bukurikizwa mu gutegura dosiye isaba kwemererwa n'igihe ntarengwa cy'uko banki yaba yasubijwe

Banki Nkuru, ikoreshje amabwiriza rusange, isobanura mu buryo burambuye ibukurikizwa mu kwemererwa kimwe n'amakuru n'inyandiko bya ngombwa mu gutegura dosiye yo gusaba kwemererwa.

Mu gihe kitarenze iminsi irindwi (7) ibonye dosiye yo gusaba kwemererwa gukora, Banki Nkuru igomba kumenyesha mu nyandiko ko ibikubiye muri dosiye y'ubusabe byuzuye.

- 9° holding securities for third parties;
- 10° conducting leasing operations;
- 11° carrying out any other activity defined by the Central Bank.

The Central Bank may impose by regulation conditions on the exercise of the aforementioned activities or may limit, the type of operations authorized.

Article 10 : Procedure to be followed in elaborating the license application dossier and deadline for reply

The Central Bank shall, by regulation, specify the detailed procedure to be followed to obtain licence as well as the information and documents required for compilation of the licence application.

Within a period of seven (7) days following the receipt of the license application, the Central Bank shall inform the applicant in writing that the dossier is complete.

- 9° détenir des valeurs mobilières pour le compte des tiers;
- 10° effecter les opérations de crédit bail;
- 11° réaliser toute autre activité définie par la Banque Centrale.

La Banque Centrale peut, par voie de règlement, imposer des conditions d'exercice des activités susmentionnées ou restreindre, le type d'opérations autorisées.

Article 10 : Procédure d'élaboration du dossier de demande d'agrément et délai de réponse

La Banque Centrale précise, par règlement, la procédure détaillée à suivre pour l'obtention d'agrément ainsi que les renseignements et les pièces nécessaires à la constitution du dossier de demande d'agrément.

Dans un délai ne dépassant pas sept (7) jours à partir de la réception de la demande d'agrément, la Banque Centrale doit informer le requérant par écrit que le dossier est complet.

- 1° kwihanangirizwa;
- 2° kubuzwa gukomeza imirimo y'ubugenzuzi yakoraga muri iyo banki;
- 3° gukurwa ku rutonde rw'abagenzuzi b'imari bemewe na Banki Nkuru mu gihe cy'imyaka itatu (3);
- 4° gukurwa burundu ku rutonde rw'abagenzuzi b'imari rugenwa na Banki Nkuru.

UMUTWE WA IV: UBURYO BANKI NKURU IGENZURA AMABANKI

Iningo ya 58: Ububasha bwo kugenzura

Banki Nkuru igenzura iyubahirizwa ry'amategeko n'amabwiriza.

Iyo ibaruramari rya banki rikozwe ku buryo rihurijwe hamwe n'iry'ikindi kigo kimwe cyangwa byinshi, Banki Nkuru ikora igenzura kuri bene ubwo buryo. Ububasha Banki Nkuru ihabwa n'iri tegeko ibukoresha no ku bigo byose bifite ibaruramari rihurijwe hamwe n'iryu banki.

Banki Nkuru igenzura amashami y'amabanki nyarwanda yashinzwe mu mahanga, hatitawe ku bubasha bufitwe n'ubuyobozi bw'ubugenzuzi mu gihugu akoreramo.

- 1° warning;
- 2° prohibition from carrying on audit operations of the bank;
- 3° withdraw from the roster of external auditors accredited by the Central Bank for a period of three (3) years;
- 4° permanent removal from the roster of external auditors fixed by the Central Bank.

CHAPTER IV: PROCEDURE FOR SUPERVISION OF BANKS BY THE CENTRAL BANK

Article 58: Supervisory power

The Central Bank shall ensure compliance with legal and regulatory provisions.

If the accounts of a bank are consolidated with those of one or more other enterprises, the Central Bank shall exercise supervision on a consolidated basis. The powers devolved to the Central Bank under this law shall also be exercised with regard to any enterprise of which the accounts are consolidated with those of the bank. The Central Bank shall supervise the branches and affiliates of Rwandan banks established in a foreign country, notwithstanding the jurisdiction of the supervisory authority of the host country.

- 1° avertissement ;
- 2° interdiction de poursuivre les opérations d'audit de la banque;
- 3° radiation de la liste des auditeurs externes agréés par la Banque Centrale, pour une durée de trois (3) ans ;
- 4° radiation définitive de la liste des auditeurs externes arrêtée par la Banque Centrale.

CHAPITRE IV : PROCEDURE DE SUPERVISION DES BANQUES PAR LA BANQUE CENTRALE

Article 58 : Pouvoir de supervision

La Banque Centrale veille au respect des dispositions légales et réglementaires.

Si les comptes d'une banque sont consolidés avec ceux d'une ou plusieurs autres entreprises, la Banque Centrale exerce le contrôle sur une base consolidée. Les pouvoirs dévolus à la Banque Centrale en vertu de la présente loi sont également exercés à l'égard de toute entreprise dont les comptes sont consolidés avec ceux de la banque. La Banque Centrale contrôle les succursales et filiales des banques rwandaises établies dans un État étranger, nonobstant la compétence de l'autorité de contrôle du pays d'accueil.

Ishobora gushyiraho uburyo bw'ubufatanye n'ubuyobozi bw'ubugenzuzi mu gihugu amashami akoreramo hakoreshejwe amasezerano y'ubufatanye.

Ingingo ya 59 : Uburyo bwo kugeza amakuru kuri Banki Nkuru

Amabanki ategetswe kugeza kuri Banki Nkuru inyandiko yose, imenyekanisha ryose, imiterere y'umutungo, hakoreshejwe kuzuza inyandikombonera kandi mu ngarukagilhe igenwa na Banki Nkuru. Agomba kandi kuyiha amakuru yose, n'ibindi bisobanuro isaba.

Ishobora na none gusaba undi muntu uwo ari we wese ufitanye isano n'imirimo ya banki inyandiko cyangwa ibisobanuro byerekeye iyo banki.

Ntawe ugomba kwitwaza ibanga ry'akazi ngo yimane amakuru asabwa na Banki Nkuru.

It may set out modalities of cooperation with the supervisory authority of the host country by means of a cooperative agreement.

Article 59: Modalities for communication of information to the Central Bank

Banks shall be required to submit to the Central Bank any document, declaration, and financial statement by filling out sample forms and in compliance with periodicity requirements determined by the Central Bank. They shall also be required to provide the Central Bank with any information, clarification, or explanation that it may request.

The Central Bank may require that any person having a relationship with a bank provide any document or information concerning that bank.

No person may invoke professional secrecy as grounds for non-disclosure of information required by the Central Bank.

Elle peut fixer les modalités de coopération avec l'autorité de contrôle du pays d'accueil par voie d'accord de coopération.

Article 59 : Modalités de communication des informations à la Banque Centrale

Les banques sont tenues de communiquer à la Banque Centrale tout document, toute déclaration et situation financière, en remplissant les formulaires types et suivant la périodicité déterminée par la Banque Centrale. Elles sont également tenues de lui fournir tout renseignement, éclaircissement et justification demandés.

La Banque Centrale peut exiger de toute autre personne qui entretient des rapports avec une banque, tout document ou renseignement concernant cette banque.

Nul ne peut invoquer le secret professionnel pour ne pas fournir des renseignements exigés par la Banque Centrale.

Ingingo ya 60: Igenzura ry'amashami ya za Banki z'amahanga mu Rwanda

Bitabangamiye iyubahirizwa ry'amasezerano y'ubufatanye ashobora kugiranwa n'ubuyobozi bw'ubugenzuzi bw'igihugu ishami rikomokamo; abagenzuzi bo mu butegetsi bw'ubugenzuzi by'igihugu cy'amahanga bashobora gukora imirimo yabo mu Rwanda ku bireba amashami y'amabanki yabo ari uko babanje kubimenyesha mu nyandiko inzego z'ubugenzuzi muri Banki Nkuru.

Ingingo ya 61: Inyandiko zigezwa ku bashinzwe umurimo w'igenzura

Amabanki kimwe n'amashami yayo bitegetswe kwemerera abagenzuzi boherejwe na Banki Nkuru kugenzura amafaranga babitse, impapuro zivunjwa amafaranga n'izindi mpeshagaciro kimwe n'ibitabo byabyo, inyandiko-mvugo, ibyemezo byakirirwaho amafaranga n'izindi nyandiko. Abagenzuzi bashobora guhabwa inyandiko y'umwimerere cyangwa kopi y'inyandiko basabye kugira ngo bajye kuyisuzumira mu biro bya Banki Nkuru ariko bagatanga icyemezo ko bayijjanye.

Article 60: Supervision of branches of foreign banks in Rwanda

Without prejudice to the application of any cooperation agreement that may exist with the supervisory authority of the country of origin, inspectors from the supervisory authority of a foreign country may exercise their functions in Rwanda with regard to the branches and affiliates of their banks upon prior written notification to the supervisory organs of the Central Bank.

Article 61: Documents to be submitted to the supervision officers

Banks and their branches shall be required to make their cash in hand, securities and other portfolio values, books, minutes, receipts, and other documents available for inspection by the inspectors of the Central Bank. Inspectors shall have the authority to require the hand-over to them, against a receipt, of the original or a copy of any document for analysis in the premises of the Central Bank.

Article 60 : Contrôle des filiales des banques étrangères au Rwanda

Sans préjudice de l'application d'un accord de coopération éventuel avec l'autorité de contrôle du pays d'origine, les autorités de contrôle d'un pays étranger peuvent exercer leurs fonctions au Rwanda à l'égard des succursales et filiales de leurs banques moyennant notification écrite et préalable aux organes de supervision à la Banque Centrale.

Article 61: Documents à soumettre aux agents de supervision

Les banques ainsi que leurs succursales sont tenues de soumettre au contrôle des inspecteurs de la Banque Centrale leurs encaisses, titres et autres effets de valeur en portefeuille, ainsi que leurs livres, procès-verbaux, reçus et autres documents. Les inspecteurs peuvent se faire délivrer, contre décharge, l'original ou copie de tout document demandé en vue de son examen dans les locaux de la Banque Centrale.

ITEKA RYA PEREZIDA N°27/01 RYO
KUWA 30/05/2011 RIGENA IMITERERE,
IMIKORERE N'INSHINGANO
BY'ISHAMI RISHINZWE IPEREREZA
KU MARI

PRESIDENTIAL ORDER N°27/01 OF
30/05/2011 DETERMINING THE
ORGANIZATION, FUNCTIONING AND
MISSION OF THE FINANCIAL
INVESTIGATION UNIT

ARRETE PRESIDENTIEL N°27/01 DU
30/05/2011 PORTANT ORGANISATION,
FONCTIONNEMENT ET MISSION DE LA
CELLULE DE RENSEIGNEMENTS
FINANCIERS

ISHAKIRO

TABLE OF CONTENTS

UMUTWE WA MBERE: INGINGO
RUSANGE

Ingingo ya mbere: Ikigamijwe

Ingingo ya 2: Urwego rureberera Ishami

Ingingo ya 3: Icyicaro cy'Ishami

Ingingo ya 4: Ahandi hantu Ishami
ryakorera

Ingingo ya 5: Inshingano z'Ishami

UMUTWE WA II: UBUBASHA
N'IMIKORERE BY'ISHAMI

Ingingo ya 6: Amakuru ajyanye n'ibikorwa
bikemangwa

Ingingo ya 7: Kwakira no gusesengura
amakuru

Ingingo ya 8: Kubona amakuru no
kuyahererekanya

CHAPTER ONE: GENERAL
PROVISIONS

Article one: Purpose

Article 2: Supervising Authority of the Unit

Article 3: Head office of the Unit

Article 4: Establishment of branches

Article 5 : Responsibilities of the Unit

CHAPTER II: POWERS AND
FUNCTIONING OF THE UNIT

Article 6: Suspicious Transactions and
Funds Report

Article 7: Reception and analysis of
information

Article 8: Access to information and data
exchange

TABLE DES MATIERES

CHAPITRE PREMIER: DISPOSITIONS
GÉNÉRALES

Article premier: Objet

Article 2: Organe de tutelle de la Cellule

Article 3 : Siège de la Cellule

Article 4 : Création de branches

Article 5 : Attributions de la Cellule

CHAPITRE II: POUVOIRS ET
FONCTIONNEMENT DE LA CELLULE

Article 6 : Déclarations relatives aux
opérations suspectes

Article 7: Réception et analyse des
informations

Article 8: Accès à l'information et échange
de données

<u>Ingingo ya 9:</u> Gutanga raporo	<u>Article 9:</u> Reports submission	<u>Article 9 :</u> Transmission de rapports
<u>Ingingo ya 10:</u> Amakuru agenewe abashinzwe gutanga amakuru	<u>Article 10:</u> Information for the reporting entities	<u>Article 10 :</u> Information aux entités déclarantes
<u>Ingingo ya 11:</u> Kutagaragaza umwirondoro w'uwatanze amakuru	<u>Article 11:</u> Prohibition to disclose the identity of the reporting entity	<u>Article 11:</u> Interdiction de révéler l'identité de l'entité déclarante
<u>Ingingo ya 12:</u> Amabwiriza agenewe ibigo bishinzwe gutanga amakuru	<u>Article 12:</u> Directives for the reporting entities	<u>Article 12:</u> Directives à l'intention des entités déclarantes
<u>Ingingo ya 13:</u> Ubugenzuzi bukorerwa abatanga amakuru batagira urwego rw'ubugenzuzi rwihariye	<u>Article 13:</u> Supervision of the reporting entities without specific supervising authority	<u>Article 13:</u> Supervision d'entités déclarantes dépourvues d'une autorité de contrôle spécifique
<u>Ingingo ya 14:</u> Ububasha bw'Ishami mu gutanga amakuru rifite	<u>Article 14:</u> Powers of the Unit to transmit information	<u>Article 14:</u> Pouvoirs de la Cellule de transmettre les informations
<u>Ingingo ya 15:</u> Imikoranire n'amashami y'iperereza yo mu bindi bihugu	<u>Article 15:</u> Relationships with foreign financial investigation units	<u>Article 15 :</u> Relations avec des cellules de renseignements financiers étrangères
<u>Ingingo ya 16:</u> Amakuru Ishami ryohereza mu bindi bihugu	<u>Article 16:</u> Information transmitted by the Unit to a foreign authority	<u>Article 16 :</u> Informations transmises par la Cellule à une autorité étrangère
<u>UMUTWE WA III:</u> IMITERERE Y'ISHAMI	<u>CHAPTER III:</u> ORGANIZATION OF THE UNIT	<u>CHAPITRE III :</u> ORGANISATION DE LA CELLULE
<u>Ingingo ya 17:</u> Inzego z'ubuyobozi z'Ishami	<u>Article 17:</u> Administrative Organs of the Unit	<u>Article 17:</u> Organes administratifs de la Cellule
<u>Ingingo ya 18:</u> Abagize Inama Ngishwanama y'Ishami	<u>Article 18:</u> Composition of the Advisory Board	<u>Article 18 :</u> Composition du Conseil Consultatif
<u>Ingingo ya 19:</u> Inshingano z'Inama Ngishwanama	<u>Article 19:</u> Duties of the Advisory Board	<u>Article 19:</u> Attributions du Conseil Consultatif

<u>Ingingo ya 20:</u> Ibikorwa bya buri munsi by'Ishami	<u>Article 20:</u> Daily activities of the Unit	<u>Article 20:</u> Activités journalières de la Cellule
<u>Ingingo ya 21:</u> Imiterere y'Inzego z'imirimo y'Ubuyobozi bw'Ishami	<u>Article 21:</u> Organizational chart of Unit	<u>Article 21 :</u> Structure de la Cellule
<u>Ingingo ya 22:</u> Ubuyobozi bw'Ishami	<u>Article 22:</u> Management of the Unit	<u>Article 22:</u> Direction de la Cellule
<u>Ingingo ya 23:</u> Inshingano z'Umuyobozi w'Ishami	<u>Article 23 :</u> Attributions of the Director of the Unit	<u>Article 23 :</u> Attributions du Directeur de la Cellule
<u>Ingingo ya 24:</u> Abakozi b' Ishami	<u>Article 24:</u> Staff of the Unit	<u>Article 24 :</u> Personnel de la Cellule
<u>Ingingo ya 25:</u> Ibitabangikanywa n'imirimo ikorerwa mu Ishami	<u>Article 25:</u> Incompatibilities	<u>Article 25:</u> Incompatibilités
<u>UMUTWE WA IV : INGINGO ZISOZA</u>	<u>CHAPTER IV: FINAL PROVISIONS</u>	<u>CHAPITRE IV : DISPOSITIONS FINALES</u>
<u>Ingingo ya 26:</u> Ivanwaho ry'ingingo zinyuranyije n'iri teka	<u>Article 26:</u> Repealing provision	<u>Article 26:</u> Disposition abrogatoire
<u>Ingingo ya 27:</u> Igihe iteka ritangira gukurikizwa	<u>Article 27:</u> Commencement	<u>Article 27:</u> Entrée en vigueur

ITEKA RYA PEREZIDA N°27/01 RYO
KUWA 30/05/2011 RIGENA IMITERERE,
IMIKORERE N'INSHINGANO
BY'ISHAMI RISHINZWE IPEREREZA
KU MARI

Twebwe, KAGAME Paul,
Perezida wa Repubulika;

Dushingiye ku Itegeko Nshinga rya Repubulika y'u Rwanda ryo kuwa 04 Kamena 2003, nk'uko ryavuguruwe kugeza ubu, cyane cyane mu ngingo zaryo, iya 112, iya 121 n'iya 201;

Dushingiye ku Itegeko n° 47/2008 ryo kuwa 09/09/2008 rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba cyane cyane mu ngingo zaryo; iya 20, iya 21, iya 22, iya 23, iya 24, iya 25, iya 26 n'iya 27;

Dushingiye ku Itegeko n° 09/2000 ryo kuwa 16/06/2000 Rishyiraho Polisi y'Ighugu kandi Rigena Imitunganyirize Rusange n'Ububasha byayo, cyane cyane mu ngingo yaryo ya 14;

Bisabwe na Minisitiri w'Umutekano mu Gihugu;

Inama y'Abaminisitiri yo ku wa 19 Mutarama 2011, imaze kubisuzuma no kubyemeza;

**PRESIDENTIAL ORDER N°27/01 OF
30/05/2011 DETERMINING THE
ORGANIZATION, FUNCTIONING AND
MISSION OF THE FINANCIAL
INVESTIGATION UNIT**

We, KAGAME Paul,
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003, as amended to date, especially in Articles 112, 121 and 201 ;

Pursuant to Law n° 47/2008 of 09/09/2008 on prevention and penalizing the crime of money laundering and financing terrorism, especially in Articles 20, 21, 22, 23, 24, 25, 26 and 27 ;

Pursuant to Law n° 09/ 2000 of 16/06/2000, on the Establishment, General Organization and Jurisdiction of National Police, especially in Article 14;

On proposal by the Minister of Internal Security;

After consideration and approval by the Cabinet in its session of 19 January 2011;

**ARRETE PRESIDENTIEL N°27/01 DU
30/05/2011 PORTANT ORGANISATION,
FONCTIONNEMENT ET MISSION DE LA
CELLULE DE RENSEIGNEMENTS
FINANCIERS**

Nous, KAGAME Paul,
Président de la République ;

Vu la Constitution de la République du Rwanda du 04 Juin 2003 telle que révisée à ce jour, spécialement en ses articles 112, 121 et 201 ;

Vu la Loi n° 47/2008 du 09/09/2008 relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme, spécialement en ses articles 20, 21, 22, 23, 24, 25, 26 et 27 ;

Vu la Loi n° 09/2000 du 16/06/2000 portant Création, Organisation Générale et Compétence de la Police Nationale, spécialement en son article 14;

Sur proposition du Ministre de la Sécurité Intérieure ;

Après examen et adoption par le Conseil des Ministres, en sa séance du 19 janvier 2011 ;

TWATEGETSE KANDI DUTEGETSE:

**HAVE ORDERED AND HEREBY
ORDER:**

AVONS ARRETE ET ARRETONS :

**UMUTWE WA MBERE: INGINGO
RUSANGE**

**CHAPTER ONE:
PROVISIONS**

**GENERAL CHAPITRE PREMIER: DISPOSITIONS
GENERALES**

Ingingo ya mbere: Ikigamijwe

Iri teka rigamije kugena imiterere, imikorere n'inshingano by'Ishami rishinzwe iperereza ku mari, ryitwa « Ishami » mu ngingo zikurikira.

Article One: Purpose

This Order determines the organization, the functioning and the mission of the Financial Investigation Unit hereinafter referred to as the « Unit ».

Article premier: Objet

Le présent arrêté a pour objet de déterminer l'organisation, le fonctionnement et la mission de la Cellule de Renseignements Financiers, ci-après dénommée « Cellule ».

Ingingo ya 2: Urwego rureberera Ishami

Ishami rirebererwa na Minisiteri ifite umutekano mu gihugu mu nshingano zayo.

Article 2: Supervising Authority of the Unit

The Unit is under supervision of the Ministry in charge of internal security.

Article 2: Organe de tutelle de la Cellule

La Cellule est placée sous la tutelle du Ministère ayant la sécurité intérieure dans ses attributions.

Ingingo ya 3: Icyicaro cy'Ishami

Icyicaro cy'Ishami kiri ku cyicaro Gikuru cya Polisi y'u Rwanda mu mujyi wa Kigali.

Article 3: Head office of the Unit

The head office of the Unit is located at the Headquarters of the Rwanda National Police in Kigali City.

Article 3 : Siège de la Cellule

Le siège de la Cellule est établi au Siège de la Police Nationale dans la Ville de Kigali.

**Ingingo ya 4: Ahandi hantu Ishami
ryakorera**

Byemejwe n'Inama Nkuru ya Polisi y'u Rwanda, Ishami rishobora gushinga ibiro birishamikiyeho mu bindi bice by'Ighugu kugira ngo biryorohereze kuzuza inshingano zaryo.

Article 4: Establishment of branches

Upon approval by the Police Council, the Unit can establish its branches in other parts of the country to enable it fulfil its responsibilities.

Article 4 : Crédation de branches

Sur approbation du Conseil de la Police Nationale du Rwanda, la Cellule peut établir dans d'autres parties du Pays des représentations qui lui sont directement dépendantes pour lui permettre de s'acquitter pleinement de sa mission.

Ingingo ya 5: Inshingano z'Ishami

Ishami rifite inshingano z'ingenzi zo kwegeranya, gusesengura, kugeza amakuru ku babishinzwe no kugenza ibyaha, mu rwego rwo kurwanya ibyaha by'Iyezandonke no gutera inkunga iterabwoba nk'uko biteganywa n'Itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

Ishami rifite by'umwihariko inshingano zikurikira:

1. gusaba abayobozi babifitiye ububasha guhindura no kuvugurura amategeko n'amabwiriza ajyanye no gukumira no guca burundi Iyezandonke no gutera inkunga iterabwoba;
2. gukora urutonde rw'ibimenyetso bigaragaza ikemangwa ry'amasezerano;
3. kugira uruhare mu ihugurwa ry'abakozi b'Ibigo bishinzwe gutanga amakuru;
4. gushyiraho ingamba zigamije gushimangira ukurwanya Iyezandonke no gutera inkunga iterabwoba;
5. guhuza ibikorwa byerekeye ikumira

Article 5 : Responsibilities of the Unit

The Unit shall have the main responsibilities of collecting, analyzing, disseminating the information to whom it may concern and investigating in view of combating money laundering and financing of terrorism in accordance with the Law on prevention and penalizing the crime of money laundering and terrorism financing.

The Unit shall have in particular the following responsibilities:

1. to propose to the competent authorities modifications and amendments to laws and regulations related to the prevention and suppression of money laundering and financing of terrorism;
2. to establish the list of indicators serving to recognize the suspicious transactions;
3. to participate in the professional training of the reporting entities personnel;
4. to propose measures aimed at reinforcing the fight against money laundering and financing of terrorism;
5. to coordinate activities of prevention carried out by all institutions in charge

Article 5 : Attributions de la Cellule

La Cellule a les attributions principales de collecter, analyser, transmettre les informations à qui de droit et mener les enquêtes en vue de la lutte contre le blanchiment de capitaux et le financement du terrorisme conformément à la loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme.

La Cellule a spécialement les attributions ci-après :

1. proposer aux instances compétentes des modifications et amendements aux lois et règlements relatifs à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme;
2. établir la liste d'indicateurs servant à reconnaître les transactions suspectes;
3. participer à la formation professionnelle du personnel des entités déclarantes;
4. proposer des mesures visant à renforcer la lutte contre le blanchiment de capitaux et le financement du terrorisme;
5. coordonner les activités de prévention

bikorwa n'inzego zose zishinzwe kubahiriza itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

of the implementation of the law on prevention and penalizing the crime of money laundering and terrorism financing.

exercées par toutes les institutions chargées de la mise en application de la loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme.

UMUTWE WA II: UBUBASHA N'IMIKORERE BY'ISHAMI

Ingingo ya 6: Amakuru ajyanye n'ibikorwa bikemangwa

Ishami rihabwa n'abashinzwe gutanga amakuru amakuru ajyanye n'amafaranga cyangwa iyimura ry'amafaranga bifitanye isano, agenewe gukoreshwa mu bikorwa by'yezandonke cyangwa gutera inkunga iterabwoba, ndetse no mu bikorwa by'iterabwoba cyangwa by'udutsiko tw'iterabwoba.

Ingingo ya 7: Kwakira no gusesengura amakuru

Ishami ryakira raporo zoherejwe n'ibigo bishinzwe gutanga amakuru, ibigo bishinzwe igenzura n'abagenzuzi b'imari. Risesengura izo raporo ryitaye ku makuru yose akenewe rifite.

Ingingo ya 8: Kubona amakuru no kuyahererekanya

Nyuma ya raporo zivugwa muri iri teka

CHAPTER II: POWERS AND FUNCTIONING OF THE UNIT

Article 6: Suspicious Transactions and Funds Report

The Unit shall receive from reporting entities, statements regarding funds or movements of funds that are suspected to be linked with or intended to be used in money laundering activities and/or for financing terrorism, terrorism acts or terrorism organizations.

Article 7: Reception and analysis of information

The Unit shall receive reports transmitted by reporting entities, controlling organs and auditors. It analyses these reports by taking into consideration all relevant information at its disposal.

Article 8: Access to information and data exchange

In addition to the reports set forth in this

CHAPITRE II: POUVOIRS ET FONCTIONNEMENT DE LA CELLULE

Article 6 : Réception des déclarations relatives aux opérations suspectes

La Cellule reçoit en provenance des entités déclarantes les déclarations relatives aux fonds ou mouvements de fonds suspectés d'être liés, associés ou destinés à être utilisés dans les opérations de blanchiment de capitaux et/ou pour le financement du terrorisme, des actes terroristes ou des organisations terroristes.

Article 7: Réception et analyse des informations

La Cellule reçoit les déclarations que lui transmettent les entités déclarantes, les organes de contrôle et les auditeurs. Elle analyse ces rapports en tenant compte de toutes les informations pertinentes qui sont à sa disposition.

Article 8: Accès à l'information et échange de données

Outre les déclarations prévues par le présent

cyangwa mu itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, Ishami rishobora gusaba buri wese ushinzwe gutanga amakuru kohereza ku buntu amakuru, inyandiko n'ibitabo bya ngombwa ngo rikore imirimo yaryo nk'uko biteganywa n'iri teka. Ubisabwe agomba kubyubahiriza.

Ingingo ya 9: Gutanga raporo

Igihe cyose hakekwa ku buryo bugaragara ko hari icyaha cy'yezandonke no gutera inkunga iterabwoba, Ishami rihita rigenza icyo cyaha, dosiye igashyikirizwa Ubushinjacyaha kugira ngo bushinje icyaha n'ibindi byose bikenewe. Iyo raporo iherekezwa n'ibimenyetso byose bikenewe, usibye ibisanzwe muri raporo y'igikorwa gikemangwa.

Ingingo ya 10: Amakuru agenewe abashinzwe gutanga amakuru

Ishami rimenyesha uwatanze raporo y'ikemangwa ry'ibikorwa ibijyanye n'inkurikizi zabyo. Ishami ritanga ayo makuru bitarenze iminsi icumi (10) nyuma y'uko dosiye irangira cyangwa yoherezwa Ubushinjacyaha.

Order or in the Law on prevention and penalising the crime of money laundering and financing of terrorism, the Unit can request any reporting entity to transmit, without charge, the information, documents and registries necessary to exercise their functions as set forth in this Order. The entity receiving the request is obliged to respond accordingly.

Article 9: Reports submission

Whenever there is reasonable suspicion about the commission of the crime of money laundering and financing of terrorism, the Unit shall immediately investigate and transmit the report to the Public Prosecutor's Authority for prosecution and appropriate action. This report shall be accompanied by all useful pieces of information, other than those contained in the suspicious transaction report.

Article 10: Information for the reporting entities

The Unit shall inform the entity which submitted the suspicious transaction report about its outcome. The Unit shall provide this type of information at the latest ten (10) days after the case is closed or transmitted to the Public Prosecution Authority.

arrêté ou par la loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme, la Cellule peut demander à toute entité déclarante de lui remettre, sans frais, les informations, documents et registres nécessaires à l'exercice de ses fonctions telles que le prévoit le présent arrêté. L'entité qui reçoit la demande est tenue de lui donner suite favorable.

Article 9 : Transmission de rapports

Lorsqu'il y a une raison valable de soupçonner la commission du crime de blanchiment de capitaux ou de financement du terrorisme, la Cellule mène les enquêtes et transmet le dossier immédiatement à l'Organe National de Poursuite Judiciaire pour poursuivre et prendre d'autres mesures appropriées. Ce dossier est accompagné de toutes les preuves utiles, autres que celles contenues dans la déclaration de soupçon proprement dite.

Article 10 : Information aux entités déclarantes

La Cellule doit informer l'entité qui a présenté la déclaration d'opération suspecte la suite qui y a été réservée. La Cellule doit fournir ce type d'information au plus tard dix (10) jours après la clôture du dossier ou sa transmission à l'Organe National de Poursuite Judiciaire.

Ingingo ya 11: Kutagaragaza umwirondoro w'uwatanze amakuru

Umwirondoro w'Ikigo cyatanze iyo raporo ntushobora kugaragara kuri iyo raporo keretse iyo hari impamvu zituma hakekwa ko uwo mutu cyangwa abo akoresha bakoze icyaha cy'iezandonke cyangwa ko ayo makuru ari ngombwa kugira ngo hagaragazwe ibimenyetso mu iburana, ariko ibyo bikaba ari uko kugaragaza ayo makuru byasabwe mu nyandiko n'Urukiko rubifitiye ububasha.

Ingingo ya 12: Amabwiriza agenewe ibigo bishinzwe gutanga amakuru

Ishami riha ibigo bishinzwe gutanga amakuru, amabwiriza ajyanye n'imyirondoro y'abakiriya, kubika inyandiko, raporo z'ikemangwa ry'ibikorwa n'ibindi byose iri teka cyangwa itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba bitegeka ibigo bishinzwe gutanga amakuru.

Ingingo ya 13: Ubugenzuzi bukorerwa abatanga amakuru batagira urwego rw'ubugenzuzi rwihariye

Ishami risabwa kugenzura niba abashinzwe gutanga amakuru batagenzurwa n'ikigo icyo aricyo cyose cy'igenzura, buzuza inshingano bahabwa n'iri teka cyangwa itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, hakoreshejwe isuzuma

Article 11: Prohibition to disclose the identity of the reporting entity

The identification elements of the entity that submitted the report shall not be mentioned on the said report unless there are reasons to suspect that the entity in question or its employees have committed the crime of money laundering or that this information is necessary in order to establish the facts during a penal procedure and on condition that revealing this information is requested in writing by the competent court.

Article 12: Directives for the reporting entities

The Unit shall establish for the reporting entities directives concerning the identification of customers, the record-keeping, the suspicious transaction report and other obligations that this Order or the Law on prevention and penalising the crime of money laundering and financing of terrorism imposes to reporting entities.

Article 13: Supervision of the reporting entities without specific supervising authority

The Unit shall be required to check if the reporting entities which are not under any supervising body, fulfil the responsibilities conferred to them by this Order or the Law on prevention and penalising the crime of money laundering and financing of terrorism, by

Article 11: Interdiction de révéler l'identité de l'entité déclarante

Les éléments d'identification de l'entité déclarante ne doit pas figurer dans ledit rapport à moins qu'il existe des raisons de suspecter que l'entité en question ou ses employés ont commis le crime de blanchiment de capitaux ou que cette information soit nécessaire pour établir les faits durant une procédure pénale et à condition que la divulgation de cette information soit demandée par écrit par la juridiction compétente.

Article 12: Directives à l'intention des entités déclarantes

La Cellule établit, à l'intention des entités déclarantes, des directives concernant l'identification des clients, la tenue de registres, la déclaration d'opérations suspectes et les autres obligations que le présent arrêté ou la loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme imposent aux entités déclarantes.

Article 13: Supervision d'entités déclarantes dépourvues d'une autorité de contrôle spécifique

La Cellule est tenue de veiller à ce que les entités déclarantes n'étant soumises à aucun organe de contrôle s'acquittent des responsabilités que leur confie le présent arrêté ou la loi relative à la prévention et à la répression du blanchiment de capitaux et du

ry'ibimenyetso bifatika bukorewe aho bakorera.

n'ubugenzuzi means of analysis of facts and on site inspections.

financement du terrorisme en procédant à l'examen de pièces et à des inspections sur place.

Ingingo ya 14: Ububasha bw'Ishami mu gutanga amakuru rifite

Ishami rishobora koherereza urwego rw'ubugenzuzi rwo mu Gihugu cyangwa rwo hanze rubishinzwe cyangwa abayobozhi bashinzwe kubahiriza itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba, amakuru aturuka, ku buryo buziguye cyangwa butaziguye, ku byasuzumwe, iyo rifite impamvu zifatika zemeza ko amakuru akemangwa cyangwa ko ashobora gutuma habaho iperereza ku bijyanye no kutubahiriza iri teka cyangwa ku cyaha cy'yezandonke no gutera inkunga iterabwoba ryubahirije amabwiriza ya Ensipegejero Jeneral, wa Polisi y'u Rwanda.

Ingingo ya 15: Imikoranire n'amashami y'iperereza yo mu bindibihugu

Ishami rishobora, ribyibwirije cyangwa ribisabwe, kwakira cyangwa guhana amakuru n'ishami ryo mu kindi gihugu rishinzwe iperereza cyangwa abandi banyamahanga bakora imirimo nk'ijo, ku byerekeye raporan y'ibikorwa bikemangwa, bapfa gusa kuba bahuje inshingano z'ibanga ry'akazi. Muri urwo rwego, Ishami rishobora gusinyana nabo amasezerano y'ubufatanye hakurikijwe amabwiriza ngengamikorere ategurwa

Article 14: Powers of the Unit to transmit information

The Unit can transmit to a national or relevant foreign control organ or to the authorities responsible for the enforcement of the Law on prevention and penalising the crime of money laundering and financing of terrorism the information resulting directly or indirectly from its examination, when it has good reasons to believe that the information is suspicious or that it can contribute to an investigation on the non-respect of this Order or to the crime of money laundering and financing of terrorism in compliance with the Instructions of the Inspector General of the Rwanda National Police.

Article 15: Relationships with foreign financial investigation units

The Unit can, on its own initiative or upon request, provide, receive or exchange information with the financial investigation unit from another country or other foreign counterparts with similar functions, about a suspicious transaction report, provided that the counterparts concerned are under the same obligations of professional secrecy. From this perspective, the Unit can conclude cooperation agreements in compliance with the Procedural Manual prepared by the Unit

Article 14: Pouvoirs de la Cellule de transmettre les informations

La Cellule peut transmettre à l'organe de contrôle national ou étranger pertinent ou aux autorités chargées de la mise en application de la loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme les informations résultant directement ou indirectement de son examen, si elle a de bonnes raisons de croire que ces informations sont suspectes ou qu'elles peuvent contribuer à une enquête sur le non respect du présent arrêté ou sur le crime de blanchiment de capitaux et de financement du terrorisme en conformité avec les Instructions de l'Inspecteur Général de Police.

Article 15 : Relations avec des cellules de renseignements financiers étrangères

La Cellule peut, de son initiative ou sur demande, fournir, recevoir ou échanger des informations avec les cellules de renseignements financiers d'un autre pays et d'autres organisations étrangères ayant les attributions similaires, au sujet de déclarations d'opérations suspectes, à condition que les organisations concernées soient tenues aux mêmes obligations de secret professionnel. Dans cette perspective, la Cellule peut conclure des accords de coopération en accord avec le

n'Ishami agasuzumwa n'Inama Ngishwanama.

Iyo Ishami risabwe gutanga amakuru cyangwa kohereza amakuru n'ishami ry'ikindi gihugu rishinzwe iperereza ku bijyanye n'imari, rikurikiranira hafi ibyo ryasabwe mu bubasha rihabwa n'itegeko.

Ingingo ya 16: Amakuru Ishami ryohereza mu bindi bihugu

Mbere yo koherereza abayobozi bo mu kindi gihugu amakuru yaryo bwite, Ishami rigomba kubanza kumenya neza ko ubusugire bw'ayo makuru burengerwa n'amategeko y'ibanga ry'akazi kimwe n'akurikizwa ku makuru aturuka muri icyo gihugu ahabwa abayobozi bavuzwe haruguru, kandi rikanamenya ko abo bayobozi bakoresha ayo makuru ku mpamvu ziteganywa n'iri teka cyangwa n'itegeko rikumira kandi rihana iyezandonke no gutera inkunga iterabwoba.

UMUTWE WA III: IMITERERE Y'ISHAMI

Ingingo ya 17: Inzego z'ubuyobozi z'Ishami

Ishami rigizwe n'Inzego ebyiri (2) zikurikira:

1. Inama Ngishwanama;
2. Ubuyobozi .

and approved by the Advisory Board.

When the Unit receives a request for information or transmission of financial information from a financial investigation unit of another country, it shall follow up this request in the limits of the power conferred to it under the Law.

Article 16: Information transmitted by the Unit to a foreign authority

Before transmitting personal data to a foreign authority, the Unit must take steps to ensure that this information is protected by the same provisions of professional secrecy as those which apply to the information of national source provided to the aforementioned authority and this one uses information for purposes envisaged by this Order or the Law on prevention and penalizing the crime of money laundering and financing terrorism.

CHAPTER III: ORGANIZATION OF THE UNIT

Article 17: Administrative Organs of the Unit

The Unit shall have the following two (2) Organs:

1. the Advisory Board;
2. the Management.

manuel de procédure préparé par la Cellule et approuvé par le Conseil Consultatif.

Lorsque la Cellule reçoit une demande d'information ou de transmission d'information d'une cellule de renseignements financiers d'un autre pays, elle donne suite à cette demande dans la mesure des pouvoirs que lui confère la loi.

Article 16 : Informations transmises par la Cellule à une autorité étrangère

Avant de transmettre des données personnelles à une autorité étrangère, la Cellule doit s'assurer que ces informations sont protégées par les mêmes dispositions de secret professionnel que celles qui s'appliquent aux informations de source nationale fournies à ladite autorité et que celle-ci utilise les informations aux fins prévues par le présent arrêté ou par la loi relative à la prévention et à la répression du blanchiment de capitaux et du financement du terrorisme.

CHAPITRE III : ORGANISATION DE LA CELLULE

Article 17: Organes administratifs de la Cellule

La Cellule est composée de deux (2) Organes suivants:

1. le Conseil Consultatif;
2. la Direction.

Ingingo ya 18: Abagize Inama Ngishwanama y'Ishami

Inama Ngishwanama y'Ishami igizwe n'abantu baturuka mu nzego zikurikira:

- 1.Ubushinjacyaha Bukuru;
- 2.Ubugenzacyaha ;
- 3.Banki Nkuru y'u Rwanda;
- 4.Ikigo cy'Ighugu gishinzwe kwinjiza imisoro n'amahoro;
- 5.Minisiteri y'Imari n'Igenamigambi;
- 6.Ministeri y'Ubuganyi n'Amahanga n'Ubutwererane;
- 7.Urwego rw'Umuvunyi.

Abagize Inama Ngishwanama bashyirwaho n'iteka rya Minisitiri w'Intebe, bisabwe na Minisitiri ufile umutekano mu nshingano ze. Bagira manda y'imyaka itatu (3) ishobora kongerwa. Iryo teka rigena Umuyobozi n'Umuyobozi wungirije w'yo nama rikanagena imikorere yayo.

Umuyobozi w'Ishami aba mu Nama Ngishwanama akaba n'Umwanditi wayo.

Inama Ngishwanama yishyiriraho amategeko ngengamikorere yayo.

Article 18: Composition of the Advisory Board

The Advisory Board shall be composed of the representatives of the following institutions :

1. The National Public Prosecution Authority;
2. The Criminal Investigation Department;
3. The National Bank of Rwanda;
4. The Rwanda Revenue Authority;
5. The Ministry of Finance and Economic Planning;
6. The Ministry of Foreign Affairs and Cooperation;
7. The Office of the Ombudsman.

Members of the Advisory Board shall be appointed by the Prime Minister's Order upon request by the Minister in charge of Internal Security. They shall be appointed for a mandate of three (3) years which may be renewed. The Order shall appoint also the Chairperson and Vice Chairperson of the Board and determine its functioning.

The Director of the Unit shall be a member of the Advisory Board and shall serve as the rapporteur.

The Advisory Board shall establish its internal rules and regulations.

Article 18 : Composition du Conseil Consultatif

Le Conseil Consultatif est composé des représentants des institutions suivantes :

1. L'Organe National de Poursuite Judiciaire;
2. Le Département d'Investigations Criminelles;
3. La Banque Nationale du Rwanda ;
4. L'Office Rwandais des Recettes ;
5. Le Ministère des Finances et de la Planification Economique ;
6. Le Ministère des Affaires Etrangères et de la Coopération ;
7. L'Office de l'Ombudsman.

Les membres du Conseil Consultatif sont nommés par arrêté du Premier Ministre sur demande du Ministre ayant la sécurité intérieure dans ses attributions. Ils sont nommés pour un mandat de trois (3) ans renouvelables. L'arrêté nomme également le Président et le Vice-Président du Conseil et détermine son fonctionnement.

Le Directeur de l'Unité est membre du Conseil Consultatif et en est aussi rapporteur.

Le Conseil Consultatif établit son Règlement d'Ordre Intérieur.

Ingingo ya 19: Inshingano z'Inama Ngishwanama

Inama Ngishwanama ifite inshingano zo kugira inama Ishami mu byerekeye:

1. ishyirwaho ry'ingamba zikwiye kugira ngo Ishami rishobore kuzuza neza inshingano zaryo;
2. ishyirwaho ry'amategeko ajyanye n'igihe yo kurwanya iyezandonke no gutera inkunga iterabwoba;
3. ishyirwaho ry'amategeko ngengamikorere y'Ishami;
4. igena ry'amasezerano Ishami ryagirana n'andi mashami;
5. ikurikirana n'isuzuma ry'ibyagezweho n'Ishami mu rwego rwo kumenya niba ingamba ziriho zikwiye cyangwa zikeneye kuvugururwa;
6. itangwa rya raporo y'Ighembwe n'igihe cyose bikenewe igenewe Minisitiri ufile umutekano mu gihugu mu nshingano ze.

Article 19: Responsibilities of the Advisory Board

The Advisory Board shall have the responsibilities to advise the Unit on the following issues:

1. proposing measures aimed at enabling the Cell to fulfil its mission;
2. updating the legislation relating to the fight against money laundering and financing of terrorism;
3. establish internal rules and regulations of the Unit;
4. proposing agreements with other Financial Investigations Units;
5. monitoring and evaluating achievements in the Unit in order to assess the adequacy of existing measures or to modify them wherever necessary;
6. giving a quarterly report and at any time deemed necessary to the Minister in charge of internal security.

Ingingo ya 20: Ibikorwa bya buri munsi by'Ishami

Ibikorwa bya buri munsi by'Ishami bishinzwe Ubuyobozi bw'Ishami bushamikiye ku biro bya Ensipegiteri Jenerali wa Polisi.

Article 20: Daily activities of the Unit

The daily activities of the Unit shall be in power of the administration attached to the Office of Inspector General of Police.

Article 19: Attributions du Conseil Consultatif

Le Conseil Consultatif a pour attributions de conseiller la Cellule en ce qui suit:

1. proposer les mesures visant à permettre à la Cellule de bien remplir sa mission;
2. mettre en place une législation actualisée visant à combattre le blanchiment d'argent et le financement du terrorisme;
3. mettre en place le Règlement d'Ordre Intérieur de la Cellule;
4. proposer les Accords de Coopération avec d'autres Cellules;
5. faire le suivi et l'évaluation des réalisations de la Cellule en vue de voir si les mesures en place sont adéquates ou de les modifier si nécessaire;
6. transmettre un rapport trimestriel et chaque fois que de besoin au Ministre ayant la sécurité intérieure dans ses attributions.

Article 20: Activités journalières de la Cellule

Les activités journalières de la Cellule sont à la charge de l'administration attachée au Bureau de l'Inspecteur Général de Police.

Ingingo ya 21: Imiterere y'Inzego z'imirimo y'Ubuyobozi bw'Ishami

Imiterere y'Inzego z'imirimo y'Ubuyobozi bw'Ishami ishyirwaho n'Inama Nkuru ya Polisi y'u Rwanda.

Ingingo ya 22: Ubuyobozi bw'Ishami

Ishami riyoborwa n'Umuyobozi ushyirwaho n'Urwego rushyiraho Abayobozi muri Polisi y'u Rwanda.

Ingingo ya 23: Inshingano z'Umuyobozi w'Ishami

Umuyobozi w'Ishami afite cyane cyane inshingano zikurikira :

1. gukurikirana imicungire ya buri munsi y'Ishami ;
2. kugenzura niba amategeko agomba gukurikizwa n'abakozi mu myitwarire, mu bikorwa na serivisi by'Ishami yubahirizwa ;
3. gushyira mu bikorwa inshingano z'Ishami ;
4. gutegura no gushyikiriza Ensipegiteri Jeneral wa Polisi umushinga w'ingengo y'imari y'umwaka y'Ishami;
5. gutsura umubano w'Ishami n'izindi nzego ;
6. gushyikiriza Ensipegiteri Jeneral wa Polisi raporo ku micungire y'Ishami;

Article 21: Organizational chart of Unit

The Organizational chart of the Unit shall be determined by the Rwanda National Police Council.

Article 22: Management of the Unit

The Unit shall be managed by a Director appointed by the appointing Authority in the Rwanda National Police.

Article 23: Duties of the Director of the Unit

The Director of the Unit shall have mainly the following duties:

1. to ensure the daily management of the Unit;
2. to ensure that all rules and regulations relating to the discipline and carrying out activities and services are observed by the staff of the Unit;
3. to fulfil the Unit's responsibilities;
4. to prepare and submit to the Inspector General of Police the annual budget proposal of the Unit;
5. to ensure the relationship between the Unit and other organs;
6. to submit to the Inspector General of Police the annual report on the management of the Unit;

Article 21 : Structure de la Cellule

La structure de la Cellule est déterminée par le Conseil de la Police Nationale du Rwanda.

Article 22: Direction de la Cellule

La Cellule est dirigée par un Directeur nommé par l'Autorité de nomination au sein de la Police Nationale du Rwanda.

Article 23 : Attributions du Directeur de la Cellule

Le Directeur de la Cellule a notamment les attributions suivantes :

1. assurer la gestion quotidienne de la Cellule ;
2. veiller au respect par le personnel des règles relatives à la discipline et à la réalisation des activités et services de la Cellule ;
3. exécuter les attributions de la Cellule ;
4. élaborer et soumettre à l'Inspecteur Général de Police le projet du budget annuel de la Cellule ;
5. assurer les relations entre la Cellule et d'autres institutions ;
6. soumettre à l'Inspecteur Général de Police le rapport annuel de gestion de la Cellule ;

7. guhuza ibikorwa by'ubugenzuzi no kubikorera raporo igashyikirizwa Ensipegeri Jenerali wa Polisi;

Ingingo ya 24: Abakozi b' Ishami

Abakozi b'Ishami bagizwe:

1. Abapolisi ba Polisi y'u Rwanda;
2. Abakozi basanzwe, bafite ubumenyi bwihariye, kandi bagengwa n'amasezerano y'umurimo nk'uko biteganywa n'Itegeko rigenga umurimo.

Ingingo ya 25: Ibitabangikanywa n'imrimo ikorerwa mu Ishami

Abayobozi cyangwa abakozi b'Ishami cyangwa undi muntu wese wahawe umurimo muri iryo Shami ntibemerewe kubangikanya inshingano bafite mu Ishami n'indi mirimo mu kigo cy'abashinzwe gutanga amakuru, cyangwa undi murimo utorerwa, kimwe n'undi murimo wose watuma batigenga mu murimo wabo.

UMUTWE WA IV : INGINGO ZISOZA

Ingingo ya 26: Ivanwaho ry'ingingo zinyuranyije n'iri teka

Ingingo zose z'amateka abanziriza iri kandi zinyuranyije na ryo zivanyweho.

7. to coordinate control activities and to submit a report to the Inspector General of Police;

Article 24: Staff of the Unit

The Staff of the Unit shall consist of :

1. Police officers of the Rwanda National Police;
2. Ordinary staff having particular knowledge and governed by contracts of employment in accordance with the law regulating labour.

Article 25: Incompatibilities

Executive officers or employees of the Unit or any other person appointed to one of its posts shall not, parallel to their responsibilities within the Unit, exercise other functions in a reporting entity or exercise an elected function, or any other activity that could jeopardize the independence of their functions.

CHAPTER IV: FINAL PROVISIONS

Article 26: Repealing provision

All prior provisions contrary to this Order are hereby repealed.

7. coordonner les activités de contrôle et en faire un rapport à l'Inspecteur Général de Police ;

Article 24 : Personnel de la Cellule

Le Personnel de la Cellule comprend :

1. les policiers de la Police Nationale du Rwanda;
2. le personnel ordinaire ayant des connaissances particulières et régi par des contrats de travail conformément à la loi portant réglementation du travail.

Article 25: Incompatibilités

Les dirigeants ou employés de la Cellule ou toute autre personne nommée à un de ses emplois ne peuvent, parallèlement à leurs responsabilités au sein de la Cellule, exercer d'autres fonctions dans une entité déclarante ou exercer une fonction élective, ou toute autre activité risquant de compromettre l'indépendance de leurs fonctions.

CHAPITRE IV : DISPOSITIONS FINALES

Article 26: Disposition abrogatoire

Toutes les dispositions antérieures contraires au présent arrêté sont abrogées.

Ingingo ya 27: Igihe iteka ritangira Article 27: Commencement
gukurikizwa

Iri teka ritangira gukurikizwa ku munsi ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, kuwa **30/05/2011**

(sé)

KAGAME Paul
Perezida wa Repubulika

(sé)

MAKUZA Bernard
Minisitiri w'Intebe

Bibonywe kandi bishyizweho Ikirango cya Repubulika:

(sé)

KARUGARAMA Tharcisse
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

This Order shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on **30/05/2011**

(sé)

KAGAME Paul
President of the Republic

(sé)

MAKUZA Bernard
Prime Minister

Seen and sealed with the Seal of the Republic:

(sé)

KARUGARAMA Tharcisse
Minister of Justice/Attorney General

Article 27: Entrée en vigueur

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le **30/05/2011**

(sé)

KAGAME Paul
Président de la République

(sé)

MAKUZA Bernard
Premier Ministre

Vu et scellé du Sceau de la République:

(sé)

KARUGARAMA Tharcisse
Ministre de la Justice /Garde des Sceaux