



Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups, outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

CIVIL SOCIETY REPORT

on the implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

UNITED NATIONS CONVENTION AGAINST CORRUPTION

IN BURUNDI

by L'Observatoire de Lutte contre la Corruption et les
Malversations Economiques (OLUCOME)

Acknowledgements

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The findings in this report are those of the author and do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of September 19, 2023.

The author of this report is Maître NDIKUMUKAMA Ernest, legal adviser to the Bujumbura Court of Appeal and member of Cabinet D. Nzemba and Associates.¹ He has assumed a number of responsibilities as administrative and legal advisor to several public institutions, as an independent consultant and as a legal expert inside and outside his country. He was head of the industrial property, legislation, training and commercial information departments of the Ministry of Trade and Industry, national expert and deputy coordinator of the Business Law Reform and Modernization Project (REMODRA), independent consultant and advisor to the Political, Administrative and Legal Office of the Presidency of the Republic of Burundi, Deputy Coordinator of the National Secretariat in charge of Monitoring and Evaluating the implementation of the National Strategy for Good Governance and the Fight against Corruption (SNBGLC) from 2011 to 2015, government expert for the UNCAC Review Mechanism and UNODC focal point for Burundi for several years.

The author of this report wishes to thank the UNCAC Coalition for entrusting them with the responsibility of carrying out the study for the preparation of the civil society parallel report on the implementation by Burundi of selected articles of Chapters II and V of the UNCAC. This study could not have been carried out properly without the technical advice of the UNCAC Coalition, nor the information and documentary data received in advance from certain public institutions, civil society organizations and liberal professions, to produce a report on the subject and draw solid, objective and reliable conclusions for the Government of the Republic of Burundi, its technical and financial partners and other institutions concerned with the prevention of corruption and related offences, on the one hand, and the recovery of ill-gotten assets, on the other.

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facilitated the author's access to the information and documentation available on the subjects covered by this research.

The report was reviewed by Denyse Degiorgio, Alexis Chalon and Danella Newman from the UNCAC Coalition. The English translation of the original French report was conducted by Isabella Moggs from the UNCAC Coalition.

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OLUCOME ASBL's overall objective is to combat the scourge of corruption and economic malpractice in Burundi. OLUCOME's main objectives are to:

- Promote ethical behavior in public and private services, clear and unambiguous provisions on conflicts of interest, sound accounting and auditing practices in line with international standards, reliable data management systems, an independent judiciary committed to upholding the rule of law, and rules against money laundering;
- Contribute to the fight against impunity for perpetrators, co-perpetrators and accomplices in acts of corruption and embezzlement;
- Combat political corruption by rigorously monitoring the application of the relevant laws.

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Acronyms and abbreviations

While the abbreviations are provided in both French and English in the following table, they are used in their original French version throughout the report for institutions and laws and in their English version for names of international institutions or initiatives.

Abbreviation	French	English
ABEF	Association des Banques et Établissements Financiers	Association of Banks and Financial Institutions
ABUCO	Association Burundaise des Consommateurs	Burundi Consumers Association
ABP	Agence Burundaise de Presse	Burundi Press Agency
AMISOM	Mission de l'Union Africaine en Somalie	African Union Mission in Somalia
AMFP	Agence de la Mutuelle de la Fonction publique	Public Service Mutual Insurance Agency
ARMP	Agence de Régulation des Marchés Publics	Public Procurement Regulatory Agency
BRB	Banque de la République du Burundi	Bank of the Republic of Burundi
BSAC	Brigade Spéciale Anticorruption	Special Anti-Corruption Brigade
CFCIB	Chambre Fédérale du Commerce et de l'Industrie du Burundi	Federal Chamber of Commerce and Industry of Burundi
CIDO	Conférence internationale sur les données ouvertes	International Conference on Open Data
CMP	Code des Marchés Publics	Public Procurement Code
CNRF	Cellule Nationale de Renseignement Financier	National Financial Intelligence Unit
CNUCC/UNCAC	Convention des Nations Unies contre la corruption	United Nations Convention against Corruption
COST	Coopération européenne dans le domaine de la recherche scientifique et technique	European cooperation in scientific and technical research
DNCMP	Direction Nationale de Contrôle des Marchés Publics	National Directorate for Public Procurement Control
ENS	École Normale Supérieure	Ecole Normale Superieure
FBU	Franc Burundais	Burundi Franc
FDN	Force de Défense Nationale	National Defense Force
FOCODE	Forum pour la Conscience et le Développement	Forum for Consciousness and Development
FORSC	Forum pour le Renforcement de la Société Civile	Forum for the Strengthening of Civil Society
GABAOA	Groupe Anti blanchiment en Afrique Orientale et Australe	Eastern and Southern Africa Anti-Money Laundering Group
GAFI	Groupe d'Action Financière	Financial Action Task Force
ITIE	Initiative pour la transparence dans les industries extractives	Extractive Industries Transparency Initiative
LBCFT	Lutte contre le Blanchiment et le Financement du Terrorisme	Combating Money Laundering and Terrorist Financing
LPBGLC	Lettre de Politique de Bonne Gouvernance et de lutte contre la Corruption	Good Governance and Anti-Corruption Policy Letter
MINUSCA	Mission multidimensionnelle	United Nations Multidimensional

	intégrée des Nations Unies pour la stabilisation en Centrafrique	Integrated Stabilization Mission in the Central African Republic
MPBG	Ministère à la Présidence chargé de la Bonne Gouvernance	Ministry of the Presidency in charge of Good Governance
OAG	Observatoire de l'Action Gouvernementale	Observatory of Government Action
OBR	Office Burundais des Recettes	Burundi Revenue Office
OLUCOME	Observatoire de Lutte contre la Corruption et les Malversations Économiques	Observatory for the Fight against Corruption and Economic Embezzlement
ONG	Organisation Non-Gouvernementale	Non-Governmental Organization
OM	Ordonnance Ministérielle	Ministerial Order
OPC	Ordre des Professionnels Comptables	Order of Chartered Accountants
ONU DC	Office des Nations Unies contre la Drogue et le Crime	United Nations Office on Drugs and Crime
OSC/CSO	Organisation de la Société Civile	Civil Society Organization
PAFE	Police de l'Air, des Frontières et des Étrangers	Air, Border and Foreign Police
PARCEM	Parole et Actions pour le Réveil des Consciences et l'Évolution des Mentalités	Words and Actions for Awakening Consciousness and Changing Minds
PGO/OGP	Partenariat pour un gouvernement ouvert	Open Government Partnership
PND	Plan National pour le Développement du Burundi	Burundi National Development Plan
REGIDESO	Régie de Production et de Distribution d'Eau et d'Électricité	Water and electricity production and distribution company
REMODRA	Réforme et Modernisation du Droit des Affaires	Business Law Reform and Modernization
RTNB	Radio Télévision Nationale du Burundi	Burundi National Radio and Television
SGF	Statut Général des Fonctionnaires	General Statute of Civil Servants
SNBGLC	Stratégie Nationale de Bonne Gouvernance et de Lutte contre la Corruption	National Strategy for Good Governance and the Fight against Corruption
SYMABU	Syndicat des Magistrats du Burundi	Burundi Magistrates' Union
CNR	Service National de Renseignement	National Intelligence Service
TI	Transparence Internationale	Transparency International
UB	Université du Burundi	University of Burundi
USD	Dollars américains	U.S. Dollars

List of people consulted

Name	Job title	Affiliation	Date of interview
Mr. BARIMWABO Mathias	Advisor to the Minister of Labor and Civil Service and government expert appointed for the 2 ^{ème} UNCAC review cycle	Office of the Minister of Labor and Civil Service	24/10/2022
Mr. BATUNGWANAYO Balthazar	Advisor to the Permanent Secretary	Permanent Secretariat of the Ministry of Labor and Civil Service	24/10/2022
Mr. Oswald NZOKURAKUMANA	Head of the Payroll Department in the Budget Directorate	Ministry of Finance, Budget and Economic Planning	28/10/2022
Mr. NDIKUMANA Roger	General Commissioner	General Commissariat of the Special Anti-Corruption Brigade (BSAC)	2/11/2022
Ms. KWIZERA Sylvie	Support executive at the BSAC General Commissariat and member of the Cellule Nationale de Renseignement Financier (CNRF - National Financial Intelligence Unit)	BSAC General Commissariat	2/11/2022
Dr BANO Innocent	Permanent Secretary	CNRF	2/11/2022 8/11/2022
Mr. BASIGIVYABO Boniface	Executive Secretary	Executive Secretariat for Public Procurement	2/11/2022 24/11/2022
Mr. Faustin NDIKUMANA	Chairman	PARCEM - Words and Actions for Awakening Consciousness and Minds	9/11/2022 5/12/2022
Maître Godefroid MANIRAMBONA	Chairman	Observatory of Government Action (OAG)	10/11/2022
Mr. BARANKITSE Pacifique	Attorney General and government expert appointed for the 2 ^{ème} UNCAC review cycle	Public Prosecutor's Office at the Anti-Corruption Court	11/11/2022
Master Jean de Dieu MUHUZENGE	Bâtonnier de l'Ordre des Avocats près la Cour d'Appel en Mairie de Bujumbura (President of the Bar Association at the Bujumbura Court of Appeal)	Bar at the Court of Appeal in Bujumbura Town Hall	14/11/2022
Mr. RUFYIRI Gabriel	Chairman	Observatory for the Fight against Corruption and Economic and Financial Embezzlement (OLUCOME)	17/11/2022

Mr. NDUWAYO Pierre	Chairman	Association of Consumers of Burundi/ Transparency International (ABUCO/T.I.)	18/11/2022
Ms. NDUWAYEZU Béatrice	Member of the Comité Permanent des Marchés Publics	Standing Committee on Public Procurement	24/11/2022
Mr. NKURUNZIZA Eric	Technical Director of Legal Affairs Regulation	General Management of the Public Procurement Regulatory Agency (ARMP)	30/11/2022

I. Introduction

Burundi ratified the United Nations Convention against Corruption (UNCAC) on January 18, 2005. Burundi has not signed the UNCAC. It was the draft text of its ratification that was deliberated by the Council of Ministers, as the preamble to Law N°1/03 of January 18, 2005 on the ratification of the UNCAC.

This parallel report reviews Burundi's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Burundi was selected by the UNCAC Implementation Review Group on June 17, 2016 by a drawing of lots for review in the first year of the second cycle.

1.1 Scope of application

The UNCAC articles and topics that receive particular attention in this report are, under Chapter II, those covering preventive anti-corruption policies and practices (article 5), preventive anti-corruption bodies (article 6), public sector employment (article 7.1), political financing (article 7.3), codes of conduct, conflicts of interest and asset declarations (articles 7, 8 and 12), reporting mechanisms and whistleblower protection (articles 8.4 and 13.2), public procurement (article 9.1), the management of public finances (article 9.2), judiciary and prosecution service (article 11), access to information and the participation of society (articles 10 and 13.1) and measures to prevent money laundering (article 14). Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (articles 52 and 58) and measures for direct recovery of property (article 53).

1.2 Structure

The report begins with an executive summary, including the condensed findings, conclusions and recommendations about the review process, the availability of information as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Burundi as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

1.3 Methodology

The report was prepared by Maître Ernest NDIKUMUKAMA for OLUCOME with technical and financial support from the UNCAC Coalition. The consultant made efforts to obtain information for the report from government offices and to engage in dialogue with government officials, civil society actors and legal practitioners.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by civil society organizations (CSOs). These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC)'s checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

In preparing this report, the author took into account Burundi's self-assessment report on the implementation of Chapters II and V of the UNCAC, which was sent to the UNODC in November 2016, as well as the executive summary of Burundi's report published in 2019 by the UNODC.²

² CAC/COSP/IRG/2019/CRP.17, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group, Second part of the resumed tenth session held in Abu Dhabi, December 17-18, 2019, Executive Summary: Burundi, December 5, 2019, accessed September 15, 2023.

II. Executive summary

This civil society parallel report on the review of Burundi's implementation of selected articles of Chapters II and V of the UNCAC on prevention measures and asset recovery complements Burundi's official review of the same UNCAC chapters which was carried out by experts from Germany and Cameroon, whose executive summary³ was accepted without reservation by Burundi and published by the UNODC on December 5, 2019.

The executive summary outlines the general spirit of the articles analyzed in Chapter II of UNCAC on preventive measures and Chapter V on asset recovery.

2.1 Description of the official review process

Burundi's official review process began on June 17, 2016 with a draw of 29 countries including Burundi to be reviewed in the first year of the second UNCAC review cycle. Burundi was assessed by Germany and Cameroon. Burundi's self-assessment report was sent to the UNODC in November 2016. The in-person visit was carried out by the expert evaluators from 2 to 5 May, 2017, in Bujumbura. The executive summary for Burundi was published on December 5, 2019. However, the full country report is not yet available.

2.2 Availability of Information

The preparation of this civil society parallel report on Chapters II and V of the UNCAC required the collection of available documentation on the articles covered by this report, the organization of interviews with government experts from the public administration who were aligned with Burundi within the framework of the second UNCAC review cycle, the organization of interviews with representatives of civil society organizations (CSOs) most active in the fight against corruption and economic and financial malpractice, as well as the Bar Association with regard to the independence of judges and prosecution services, the use of documents collected and the processing of information obtained during interviews.

Generally speaking, and without the need for prior and systematic written administrative formalities, requests for access to information were part of the interview process with the resource persons identified by the consultant, and the information and documents requested were made available during and after the interviews, as appropriate. It should be noted, however, that Burundi does not yet have legislation on public access to information.

2.3 Implementation in Law and Practice

Table 1: Implementation and enforcement summary

UNCAC articles	Status of implementation in law	Status of implementation and enforcement in practice
Art. 5 - Preventive anti-corruption policies and practices	Largely implemented	Poor
Art. 6 - Preventive anti-corruption body or bodies	Largely implemented	Moderate
Art. 7.1 - Public sector employment	Largely implemented	Good

³ The full report of Burundi's official review is not yet available.

Art. 7.3 - Political financing	Largely implemented	Moderate
Art. 7, 8 and 12 - Codes of conduct, conflicts of interest and asset declarations	Largely implemented	Moderate
Art. 8.4 and 13.2 - Reporting mechanism and whistleblower protection	Largely implemented	Moderate
Art. 9.1 - Public procurement	Largely implemented	Moderate
Art. 9.2 - Management of public finances	Largely implemented	Moderate
Art. 10 and 13.1 - Access to information and participation of civil society	Partially implemented	Moderate
Art. 11 - Judiciary and prosecution services	Partially implemented	Poor
Art. 14 - Measures to prevent money laundering	Partially implemented	Poor
Art. 52 and 58 - Anti-money laundering	Partially implemented	Poor
Art. 53 and 56 - Measures for the direct recovery of property	Partially implemented	Poor

Preventive Anti-Corruption Policies and Practices (article 5)

Compared to the content of the executive summary of the official review published by the UNODC on December 5, 2019 and Burundi's self-assessment report on the articles under analysis, the progress noted in these two assessment documents in terms of corruption prevention policy and practices is called into question by the new developments observed in this area. As part of the implementation of Axis 13 of Burundi's National Development Plan (PND BURUNDI 2018-2027),⁴ the National Strategy for Good Governance and the Fight against Corruption⁵ (SNBGLC) for the period 2018 to 2027 was prepared by the Ministry in the Office of the President in charge of Good Governance (MPBG) following a participatory approach that involved consultations with national and international experts as well as all stakeholders, including other ministries, civil society, the private sector and the media. The strategy was signed on June 3, 2020 by the Head of State. The signing of this new SNBGLC was preceded by the adoption by the Government of Burundi of the National Policy Letter on Good Governance and the Fight against Corruption⁶ (LPBGLC). However, apart from the Government of the Republic of Burundi, other stakeholders were not involved in the implementation of these two documents operationalizing Axis 13 of the PND BURUNDI 2018-2027 or in the monitoring and evaluation of their implementation. To date, these two documents have not been published or disseminated to stakeholders interested in promoting good governance, including in the fight against corruption and asset recovery in Burundi. As a result, the public, particularly civil society organizations, are unaware of the existence of these documents, the government institution responsible for their implementation, and the monitoring and evaluation reports produced by the Government of the Republic of Burundi.

Preventive Anti-Corruption Body or Bodies (article 6)

⁴ Le Plan National de Développement du Burundi (PND 2018-2027), <https://www.presidence.gov.bi/strategies-nationales/plan-national-de-developpement-du-burundi-pnd-burundi-2018-2027/>, accessed September 15, 2023.

⁵ The SNBLC has not been published.

⁶ The LPBGLC has not been published.

At the time of the preparation of Burundi's self-assessment report and the publication of the executive summary of the official review published by the UNODC on 5 December 2019, there were several public institutions for the prevention of corruption, including the Ministry at the Presidency in charge of Good Governance, the Court of Auditors, the General State Inspectorate, the General Inspectorate of Finance, the National Public Procurement Control Directorate, the Public Procurement Regulatory Agency, the general inspectorates set up within the ministries, the Special Anti-Corruption Brigade, the Public Prosecutor's Office attached to the Anti-Corruption Court, the Anti-Corruption Court, the Burundi Revenue Office, etc. With the exception of the Ministry of Good Governance, which was abolished in 2020, all the corruption prevention bodies that existed at that time are still in existence today.

Public Sector Employment (article 7.1)

Law N°1/28 of August 23, 2006 on the General Statute for Civil Servants⁷ (SGF) contains all the appropriate measures to implement the provisions of Article 7.1 of the UNCAC concerning recruitment procedures, probationary periods, ethics, codes of conduct, the rights and obligations of civil servants, remuneration and the disciplinary system for civil servants.⁸ The procedure for recruiting civil servants should normally involve wide publicity of vacancies through official job advertisements. The SGF does not contain specific recruitment procedures or requirements for the selection of civil servants for positions considered to be particularly prone to corruption, or for the early identification of potential conflicts of interest.

Political Financing (article 7.3)

The Constitution of 7 June 2018 stipulates that the external financing of political parties is prohibited, except in exceptional cases established by law, and that any financing likely to undermine national independence and sovereignty is prohibited. It adds that the law determines and organizes the sources of funding for political parties (article 83). The Constitution further specifies that, in order to promote democracy, the law may authorize the funding of political parties on an equitable basis, in proportion to the number of seats they hold in the National Assembly. Such funding may apply to the operation of political parties as well as to election campaigns, and must be transparent. Burundian legislation on the organization and operation of political parties is not explicit about the obligation to declare the income and expenditure of third-party actors who may campaign for or against political parties and coalitions or specific candidates.

Codes of Conduct, Conflict of Interest and Asset Declarations (articles 7, 8 and 12)

The Code of Conduct for Civil Servants is integrated into the FMS. Nevertheless, certain bodies such as the police, the army, etc. have their own codes of conduct. In addition, articles 18 to 20 of the SGF apply as a supplement, in the event of shortcomings identified in specific codes of ethics or in the absence of a specific code of conduct. The functions of the Office of President of the Republic is incompatible with the exercise of any other electoral

⁷ Assemblée Nationale du Burundi, Lois promulguées en 2006, Item N°24, https://assemblee.bi/IMG/pdf/loi_n1-28_du_23_aout_2006-2.pdf, accessed September 15, 2023.

⁸ The executive summary of the official review of Burundi already published by the UNODC on December 5, 2019 and the 2006 country self-assessment report (not published) were produced under the authority of Law N°1/28 of August 23, 2006 on the SGF. By Law N°1/03 of February 8, 2023, the provisions of the 2006 SGF were amended. However, subject to the change in the numbering of the articles of the 2006 SGF, the letter and spirit of its provisions relating to the implementation of Article 7 paragraph 1 of the UNCAC have not undergone any substantive change in the new 2023 SGF.

office, public employment or professional activity. Deputies and senators holding a position incompatible with their mandates are deemed to have resigned. The executives and agents of the public administration required to declare their assets on taking up and leaving office are determined by law. Even members of specialized bodies such as the judiciary are required to file asset declarations before or at the time of their entry into office and at the end of their term in office.

Decree-Law no°1/03 of January 31, 1989, setting out the incompatibilities attached to the functions of public officials or representatives and the procedures for verifying the lawful origin of their assets⁹ stipulates that public officials and representatives may not engage in any activity likely to compromise their independence, or have any interest in a company likely to compromise their independence (article 8.3). Public officials may not receive gifts (article 5 of the SGF). With regard to conflicts of interest, article 2 of the aforementioned decree-law no° 1/03 of January 31, 1989 stipulates that declarations of interest must be made to the competent authority as defined in article 7 of said decree-law. Access to these declarations is not, however, public. However, there is as of yet no specialized body or staff responsible for enhancing transparency and preventing conflicts of interest within the government.

Reporting Mechanisms and Whistleblower Protection (articles 8.4 and 13.2)

The obligation of civil servants to report acts of corruption which they become aware of in the course of their duties to the competent authorities is set out in article 5 point 3 of law n°1/28 of August 23, 2006 on the SGF,¹⁰ which stipulates that civil servants must not only refrain from any temptation or act of corruption, but must also act as agents in the fight against corruption, as defenders and protectors of the public service. In this respect, suggestion boxes for reporting acts of corruption have been set up in the various ministries.

With regard to the protection of whistleblowers, the competent authority to whom the information referred to in this law has been disclosed must take all necessary measures to ensure the protection of persons who have provided information concerning the commission of the offences referred to in this law, or who have provided any assistance whatsoever, or who have collaborated with the competent authorities in carrying out investigations or instituting proceedings. Such protection is also guaranteed to witnesses for the prosecution or defense.

Public Procurement (article 9.1)

Since January 2018, procedures for awarding and executing public contracts have been governed by Law no°1/04 of January 29, 2018 amending Law no°1/01 of February 4, 2008 on the Public Procurement Code (CMP).¹¹ The rules laid down by this new CMP are based on the principles of free access to public procurement, equal treatment of candidates and transparency of procedures, for the purposes of efficiency and economizing in the management of public procurement, whatever the amount (articles 11 et seq. of the CMP). Open tendering is the rule. Bidders are not required to provide information on the actual beneficiaries of bids.

Management of Public Finances (article 9.2)

⁹ Unpublished text.

¹⁰ Assemblée Nationale du Burundi, Lois promulguées en 2006, Item no. 10, <https://assemblee.bi>, accessed September 15, 2023.

¹¹ National Assembly of Burundi, Laws enacted in 2018, Item No. 4, <https://assemblee.bi/IMG/pdf/04%20du%2029%20janvier%202018.pdf>, accessed September 15, 2023.

Budgeting has been results-based since the promulgation of Law N°1/20 of June 20, 2022, revising Law N°1/35 of December 4, 2008 on public finance.¹² The main rules of this new legislation governing public finances are as follows: (i) provisions on public resources and charges, (ii) provisions on the budget and budgetary policy, (iii) provisions on finance laws and (iv) provisions on budget implementation. Budgetary controls involving the intervention of Parliament, the Court of Auditors and the State Inspector General have been organized by the Burundian legislature.

The Integrated Public Finance Management System (SIGEFI), which is interconnected with all ministries and other institutions, was implemented in January 2015. In concrete terms, SIGEFI is a new public finance management system that was created with the aim of regularly producing data on revenues and expenditure and making them public. Information on budgetary procedures, the adopted budget, its implementation, revenue collected, the main sources of income and an independent audit are available to the public, since the Court of Auditors' reports on all these issues are publicly accessible. Burundi is in the process of setting up an electronic system for storing supporting documents to prevent their falsification. However, the system is not yet operational.

Access to Information and Civil Society Participation (articles 10 and 13.1)

To date, Burundi has no legislation on public access to information. However, a draft law on the subject has been in the pipeline since 2017.¹³ Burundi has had a national communication policy and a communication strategy validated by the Government since July 10, 2013. While the strategy provides for every citizen's right to information, no sanctions are provided for when it is not possible to effectively exercise this right. An information and communication unit has been set up in each ministry, and any citizen can request information from it.

The participation of civil society in public decision-making processes is ensured through elections, popular initiatives and referendums. In addition, it was customary to consult several civil society groups during the process of drafting legislation, and awareness-raising campaigns on the promotion of good governance and the fight against corruption had been conducted through the media and workshops by the former Ministry to the Presidency in charge of Good Governance, in synergy with other public and private institutions. However, with the abolition of the Ministry in charge of Good Governance, there is no longer any systematic dissemination of national good governance and anti-corruption policy documents, and monitoring and evaluation reports on their implementation are currently unknown to the public. In addition, the activities of anti-corruption activists and human rights defenders have been limited by restrictions of various kinds. Obstacles include impediments to their independence, harassment, intimidation and reprisals against civil society actors, as well as the politicization of NGO activities, smear campaigns in official speeches by political figures and surveillance. The shrinking of civic space is a real obstacle in Burundi.¹⁴

¹² Assemblée Nationale du Burundi, Lois promulguées en 2022, Item no. 19, <https://assemblee.bi/IMG/pdf/n%C2%B020%20du%20du%20du%20juin%202022.pdf>, accessed September 15, 2023.

¹³ Burundi's self-assessment report (unpublished) and the analytical summary on Burundi's implementation of UNCAC Chapters II and V published by UNODC on December 5, 2019 confirmed that there is no law on public access to information. As of the time of writing, such legislation has not yet been enacted.

¹⁴ The main obstacles to the activities of anti-corruption activists and human rights defenders were developed by the professor at the Faculty of Law of the University of Burundi, Mr Michel MASABO, in his study entitled "Impact de la fermeture de l'espace civique sur le travail des militants anticorruption et d'autres acteurs des droits de l'homme travaillant sur les questions de gouvernance" (Impact of the closure of civic space on the work of anti-corruption activists and other human rights actors working on governance issues) carried out on behalf of OLUCOME, in May 2023. However, the report has not yet been published.

Judiciary and Prosecution Service (article 11)

The independence of the judiciary is guaranteed by articles 2010 and 214 of the June 7, 2018 Constitution. In fact, article 2010 of the Constitution of June 7, 2018 specifies that justice is dispensed by the courts and tribunals throughout the territory of the republic in the name of the Burundian people. Article 214 states that the judiciary is impartial and independent of the legislative and executive powers, that in the exercise of his functions, the judge is subject only to the constitution and the law, and that the President of the Republic is the guarantor of the independence of the judiciary.

In practice, articles 2010 and 214 of the June 7, 2018 Constitution are contradicted by articles 121, 161, 163 and 171 of Organic Law N°1/21 of August 3, 2019 amending Law N°1/07 of February 25, 2005 governing the Supreme Court. Furthermore, articles 3.6 and 3.8, 4, 5 and 33 of Organic Law N°1/02 of January 23, 2021 amending Law N°1/13 of June 12, 2019 on the organization and functioning of the Supreme Council of the Judiciary, which empower the latter to receive complaints and to reform, as a last resort, judgments and rulings of judicial bodies that have already become *res judicata*, make the independence of the judiciary virtually non-existent.

While the independence of the judiciary is enshrined in articles 2010 and 214 of the Constitution, this situation is legally paradoxical, since articles 215 and 216 of the same Constitution do not give the Conseil Supérieur de la Magistrature any jurisdictional powers. Finally, according to public opinion, the independence of the judiciary is also violated by abuses on the part of certain hierarchical, administrative, political and military judicial authorities, who give secret instructions to judges to decide cases as they see fit, or take positions in the media on certain cases under investigation or trial, in order to indirectly influence the convictions of public prosecutors and/or judges.¹⁵

Measures to Prevent Money Laundering (article 14)

Since 2008, Burundi has had legislation aimed at preventing money laundering. This is Law N°1/02 of February 4, 2008 on the Fight against Money Laundering and the Financing of Terrorism (LBCFT). Article 12 of the LBCFT calls for the creation, within the Ministry of Finance, of a specialized unit responsible for combating money laundering and the financing of terrorism, known as the National Financial Intelligence Unit (CNRF), an administrative unit with legal personality responsible for receiving and processing suspicious transaction reports, and for transmitting the resulting report and other information concerning acts likely to constitute money laundering and the financing of terrorism to the Public Prosecutor's Office. The same article 12 of the LBCFT stipulates that an implementing text shall specify its organization, composition, powers, conditions for ensuring or reinforcing its independence, as well as the content and procedures for transmitting the reports sent to it. OMN°540/791 creating the CNRF was signed on May 25, 2010 by the Minister of Finance.¹⁶ During discussions with the Permanent Secretary of the CNRF and another member of the CNRF on the occasion of this study,¹⁷ the political will of the Government of Burundi to make the CNRF operational was confirmed.

¹⁵ The expression "l'instruction est venue d'en haut" ("instruction comes from on high") is a translation of the Kirundi expression "Itegeko ryavuye hejuru" ("Itegeko ryavuye hejuru"), which is well known to all sectors of the Burundian population, including lawyers, magistrates, economic operators, the police and the clergy.

¹⁶ The link to the site hosting this text does not exist.

¹⁷ These exchanges took place on November 2 and 8, 2022 with Dr BANO Innocent and Ms KWIZERA Sylvie, respectively Permanent Secretary and member of the CNRF.

Anti-Money Laundering (articles 52 and 58)

Article 4 of the LBCFT sets out the obligation to verify the identity of customers for all the institutions and persons¹⁸ referred to in article 2 of this law. Under article 5 of the LBCFT, financial institutions must exercise increased vigilance when entering into relationships with politically exposed persons. It should be noted that the UNCAC expert reviewers have already specified in the summary of their review report on Burundi published by the UNODC on December 5, 2019¹⁹ that this country has not issued guidelines on the implementation of the measures provided for in Article 52 of the UNCAC. Furthermore, it does not have a system for notifying, at the request of third-party States or on its own initiative, individuals for whom increased monitoring is planned. This situation has not yet changed. Finally, Article 12 of the LBCFT provides for the creation of the CNRF. This unit, which was created by OM n° 540/791 of May 25, 2010, is not yet operational, in violation of article 58 of the UNCAC.

Measures for Direct Recovery of Property (articles 53 and 56)

Under Article 219 of Law No. 1/09 of May 11, 2018 amending Burundi's Code of Criminal Procedure,²⁰ any party considering itself injured, including a State party, may bring a civil action to recover property or claim damages.

According to the available information, foreign States Parties have not yet appeared before Burundian courts to claim damages. There are as of yet no cases where Burundi has shared information on specific asset recovery cases with other countries proactively and/or on request.

Burundian law does not provide for the enforcement of foreign confiscation orders or for the confiscation of foreign proceeds of crime resulting from an order concerning money laundering offences or other offences established by the UNCAC. Burundi has no provisions allowing confiscation without a criminal conviction. However, the Burundian Penal Code provides for confiscation as a complementary penalty that can be imposed in addition to the principal penalty (articles 61 et seq. of the Penal Code). It is possible to request the precautionary seizure of illegally acquired assets (article 63 of the Penal Code), but no precautionary seizures have been carried out to date, as there have been no requests from foreign State parties.

Table 2: Performance of selected key institutions

Name of institution	Performance in relation to the responsibilities covered by the report	Brief comment on performance
Coordinating body for action to prevent	Poor	Since the abolition of the MPBG, there is no longer any institution at the national level to

¹⁸ The establishments and persons in question include the following natural and legal persons: financial institutions authorized under article 19 of law no. 1/017 of October 23, 2003 regulating banks and financial establishments; bureaux de change; insurance companies carrying on life insurance business; brokerage firms; casinos and gambling establishments; microfinance establishments; post offices; real estate agencies; and any other person carrying on in a professional capacity one of the activities covered by the definition of financial institution, among many others.

¹⁹ CAC/COSP/IRG/2019/CRP.17, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group, Second part of the resumed tenth session held in Abu Dhabi, December 17-18, 2019, Executive Summary: Burundi, December 5, 2019, p.10.

²⁰ National Assembly of Burundi, Laws enacted in 2018, Item no. 9, <https://assemblee.bi/IMG/pdf/9%20du%2011%20mai%202018.pdf>, accessed September 15, 2023.

corruption and related offenses (MPBG)		coordinate actions to prevent corruption.
General Commissariat of the Special Anti-Corruption Brigade (BSAC)	Good	It is functional and decentralized. However, its' human resources are insufficient, and its logistical equipment is inadequate and dilapidated. It lacks expertise in certain areas of its field of competence.
National Public Procurement Control Department (DNCMP)	Moderate	It is functional. Nevertheless, the legislation on public procurement is flawed, the DNCMP's human resources are inadequate, unspecialized and less incentivized, and its logistical resources are inappropriate for the electronic procurement already provided for in the CMP.
Public Procurement Regulatory Agency (ARMP)	Good	It is a functional institution that regularly produces annual reports containing a wealth of information on its activities, including statistics, despite its limited operating resources. ²¹
National Communication Council	Moderate	There is no legislation on public access to information. Moreover, its operating budget is limited.
National Financial Intelligence Unit (CNRF)	Poor	More than 12 years after its creation in 2010, the CNRF is still not up and running.
Agency for the recovery of ill-gotten gains	Poor	This organization does not exist in Burundi.
Budgetary control bodies such as the Court of Auditors, the State Inspector General, etc.	Moderate	The legal framework needs to be modernized, human resources are insufficient, unstable and unspecialized in certain areas, and logistical resources are limited. There is a lack of visibility on the sanctions imposed on mismanagement of public finances through incompetence and/or greed, and on the recovery of misappropriated public funds.
The judiciary (judges and prosecution officers)	Moderate	Magistrates suffer from a violation of their constitutionally enshrined independence. The judiciary's human resources are insufficient and unspecialized in certain sectors, and its material and logistical resources are inadequate and dilapidated.

2.4 Recommendations for Priority Actions

1. Implement the key actions identified in the executive summary of the review of Burundi's implementation of UNCAC Chapters II and V on the prevention of corruption and asset recovery, especially as these actions have been accepted by the Government of Burundi without reservation;

²¹ Annual reports and other important information such as statistics can be found on the public procurement website: www.arp.bi.

2. Popularize the National Policy Letter on Good Governance and the Fight against Corruption for the period 2018 to 2027 as well as the SNBGLC which was signed on June 3, 2020 by the President of the Republic;
3. Recreate a ministerial institution responsible for coordinating the design of the National Policy on Good Governance and the Fight against Corruption, and for monitoring/evaluating actions to implement this policy, following the example of the former Ministry at the Presidency responsible for Good Governance, which was abolished in 2020;
4. Ensure compliance with constitutional provisions enshrining the independence of Burundi's judiciary, including the Public Prosecutor's Office. In this respect, the laws whose provisions are unconstitutional should be reviewed;
5. Legislate on public access to information;
6. Make the National Financial Intelligence Unit operational;
7. Improve the partnership between the Government of Burundi and CSOs for effective synergy in the prevention of corruption and asset recovery;
8. Modernize the legal and institutional framework of institutions for the prevention of corruption and asset recovery to ensure better reorganization and more efficient operation;
9. Negotiate technical and financial assistance from Burundi's partners to train the staff of public institutions in data collection and processing, and the production and publication of statistics;
10. Train the key personnel of the institutions for the prevention of corruption and asset recovery and provide them with the material and logistical resources appropriate to their missions;
11. Develop strategies for civil society organizations to pursue advocacy focused on restoring the rule of law and strengthening the fight against acts of corruption and related offenses;
12. Modify the legal framework for non-profit organizations to make it less restrictive;
13. Value the work of civil society organizations, which are genuine partners of public authorities in promoting good governance and the well-being of the population.

III. Assessment of the Review Process for Burundi

The preparation of the self-assessment report benefited from the support of the main public players involved in the fight against corruption and economic and financial malpractice, who at the time of its preparation were collaborating with the former Ministry at the Presidency in charge of Good Governance, in its capacity as coordinator of the impetus and/or design of the national policy on Good Governance and the fight against corruption, and of the monitoring and evaluation of the implementation of this policy.

All the focal points and sectoral government experts in the various ministries responsible for implementing the SNBGLC, which was in force at the time of Burundi's official review process, as well as representatives of public institutions specializing in the prevention, detection, prosecution and punishment of corruption and related offences, were involved in gathering information prior to drafting the self-assessment report on Burundi's implementation of Chapters II and V of the UNCAC. These include the Court of Auditors, the State Inspector General, the Inspector General of Finances, the BSAC, the ARMP, the DNCMP, the CNRF, the Burundi Revenue Authority (OBR), the Prosecutors Office attached to the Anticorruption Court, the Anticorruption Court, the Public Prosecutor's Office and the Supreme Court.

It should be noted that a few days before the country visit that took place in Bujumbura from May 2 to 5, 2017, Burundi's self-assessment report was sent for information to the CSOs most active in the fight against corruption and economic and financial malfeasance to enable them to freely prepare their closed-door exchanges and debates with the government experts of the reviewing States. These were OLUCOME, ABUCO and the national branch of Transparency International. In the consultant's personal opinion, Burundi's official review process was transparent.²²

3.1 Report on the Review Process

Table 3: Transparency of the government and CSO participation in the UNCAC review process

Did the government disclose information about the country focal point?	Yes	All the information on the country's focal point (who was in office at the time but resigned in 2020 and has not yet been replaced to date) is in the self-evaluation report that was sent to UNODC in November 2016.
Was the review schedule published somewhere/publicly known?	Yes	Burundi was selected by a draw made publicly in Vienna on June 17, 2016 as one of the 29 countries to be reviewed in the first year of the second cycle of the UNCAC. The country visit took place from May 2 to 5, 2017, following a teleconference between government experts from the reviewing States and the State under review, facilitated by UNODC. The UN system

²² The consultant did not speak to the Review Mechanism's focal point for Burundi for the simple reason that he had not yet been appointed. However, information gathering was not totally hampered by this situation. In fact, the official review process for Burundi was personally piloted by the consultant who was a governmental expert for the UNCAC Review Mechanism for eight years and UNODC focal point for Burundi for the second review cycle, from its launch until his resignation towards the end of 2020. However, the author of this parallel civil society report still works in the field of studies promoting good governance, including the fight against corruption, not as a civil servant of the State of Burundi, but rather as a legal counsel and consultant.

		and some CSOs active in the fight against corruption were informed of this visit. The review schedule was therefore made public.
Was civil society consulted in the preparation of the self-assessment checklist?	No	This work is normally the responsibility of the State under review at this stage of the review process.
Was the self-assessment checklist published online or provided to civil society?	Yes	It was provided through the internet to three CSOs most active in the fight against corruption, a few days before the country visit of government experts from the examining states. These were OLUCOME, ABUCO and the national branch of T.I.
Did the government agree to a country visit?	Yes	Acceptance was spontaneous, unconditional and without preconditions.
Was a country visit undertaken?	Yes	It took place in Bujumbura from May 2 to 5, 2017.
Was civil society invited to provide input to the official reviewers?	Yes	<input checked="" type="checkbox"/> Anti-corruption CSOs. However, the meeting between experts from the examining states and the targeted CSOs took place behind closed doors. The country's focal point was therefore unaware of the kind of contributions that Burundi's official examiners had received from these CSOs.
Was the private sector invited to provide input to the official reviewers?	Not available	The experts from the examining states were free to consult any organization they wished, behind closed doors and at their own discretion. The country's focal point did not know whether or not the Burundian Chamber of Commerce and Industry (CFCIB) had been consulted.
Has the government committed to publishing the full country report?	Not available	It's too early to tell, as the document is not yet available and the country's new focal point is not yet known. Nevertheless, the executive summary of the review has been published by UNODC.

3.2 Access to information

To date, Burundi has no national legislation on access to information. For the purposes of this study, with the exception of public procurement management and regulation services, where the existence of data is generally satisfactory, the availability of information such as statistics, details of prosecutions and judgements, etc. is still problematic in Burundi, although efforts are underway to improve this situation.

Several anti-corruption institutions had been set up even before Burundi ratified the UNCAC. Nevertheless, the Ministry in the Presidency in charge of Good Governance, which still existed at the time of Burundi's official review process, was the coordinator for the design of the national policy on Good Governance and the Fight against Corruption, and for the monitoring/evaluation of actions to implement this policy. Most of the information on the implementation of the provisions of Chapter II of the UNCAC therefore came from the services of this ministry, while for Chapter V of the UNCAC, little information exists on the recovery of ill-gotten assets.

Appointments were negotiated through direct physical contact or by telephone with the targeted resource persons. Some interviews were held twice on the same subject. Various

contributions and/or opinions were not obtained in written form for several reasons. On the one hand, some felt that the information requested was very complex, as some of the resource persons designated by the heads of the departments concerned by this study had very little time to respond in writing to requests for information, owing to their busy schedules linked to the fulfilment of their daily missions. It should be stressed that some appointments were not easy to obtain. On the other hand, with the exception of the government experts lined up by Burundi to take part in the work of the UNCAC Implementation Review Group for the second review cycle, and the legal practitioners, the nature of the information requested did not match the profiles of the resource persons met, especially as even the rationale for requesting such information was not well known beforehand. As a result, the consultant had to organize a preliminary explanation session for each resource person on the functioning of the UNCAC Peer Review Mechanism, and its advantages in terms of its contribution to the fight against corruption in Burundi and worldwide. In this respect, the prior distribution of the summary of Burundi's review report on its implementation of the provisions of Chapters II and V of the UNCAC, already published on the UNODC website, and the status of the study's consultant as a former public administration executive, a former government expert on the UNCAC Review Group and a former UNODC focal point for Burundi, convinced or reassured even the most reticent interlocutors.

In addition, it should be noted that the few written contributions that were given to the consultant served more as documents for discussion and debate with their authors. In reality, they were still incomplete and in draft form. Finally, with the exception of the Permanent Secretariat of the National Financial Intelligence Unit (CNRF) and the General Directorate of the Public Procurement Regulatory Agency (DNCMP), no prior written request was required for access to information and documentation. Nevertheless, it must be acknowledged that access to information was the subject of a delicate approach combining diplomacy, communication and perseverance on the part of the consultant, in order to be able to work, as far as possible, in compliance with the standards of the UNCAC Coalition model for the drafting of the parallel civil society report on the review of Burundi's implementation of Chapters II and V of the UNCAC. Although this model was an important and relevant reference tool, it was nonetheless adapted by the consultant on a case-by-case basis to resolve certain difficulties encountered in the field in obtaining documentary data and other information prior to carrying out this study.

IV. Assessment of Implementation of Chapter II and Chapter V Provisions

4.1 Chapter II: Preventive measures

This section analyzes the implementation of UNCAC Chapter II on preventive measures in Burundi and Chapter V on asset recovery through the application of laws, regulations and practices, and highlights good practices and areas for improvement.

4.1.1 Preventive Anti-Corruption Policies and Practices (article 5 of the UNCAC)

Compared to the content of the executive summary of the official review already published by the UNODC on December 5, 2019, and Burundi's self-assessment report on the items under analysis, the progress noted in these two assessment documents in terms of corruption prevention policy and practice is called into question by the new developments observed in this area.

In fact, as part of the implementation of Axis 13 of Burundi's National Development Plan (PND BURUNDI 2018-2027),²³ the National Strategy for Good Governance and the Fight against Corruption²⁴ (SNBGLC) for the period 2018 to 2027 was prepared by the Ministry at the Presidency in charge of Good Governance (MPBG) following a participatory approach that involved consultation with national and international experts as well as all stakeholders, including other ministries, civil society, the private sector and the media. The strategy was signed on June 3, 2020 by the Head of State. The signing of this new SNBGLC was preceded by the adoption by the Government of Burundi of the National Policy Letter on Good Governance and the Fight against Corruption²⁵ (LPBGLC). However, it is necessary to specify that, apart from the Government of the Republic of Burundi, the other stakeholders were not involved in the implementation of these two documents for the operationalization of axis 13 of the PND BURUNDI 2018-2027 or in the monitoring and evaluation of their implementation. To date, these two documents have not been published or disseminated to stakeholders interested in the promotion of good governance, the fight against corruption and the recovery of ill-gotten assets in Burundi. As a result, the public, particularly civil society organizations, are unaware of the existence of these documents, the government institution responsible for their implementation, and the monitoring and evaluation reports produced by the Government of the Republic of Burundi.

For the purposes of this review, it was therefore difficult, if not impossible, to assess the implementation of these policies and practices to promote good governance, including the prevention of corruption, without prior communication and popularization actions on their existence and content, without reports on the awareness-raising actions carried out among stakeholders to prevent acts of poor governance and corruption, without monitoring and evaluation reports on their implementation and without related statistics. Concretely, at the time of the conception of the two operationalization documents for axis 13 of the PND BURUNDI 2018-2027 mentioned above, the realization of all these actions fell within the competence of the Ministry at the Presidency in charge of Good Governance, which was abolished during the second half of 2020, i.e. about two months after the adoption of the two

²³ Le Plan National de Développement du Burundi (PND 2018-2027), <https://www.presidence.gov.bi/strategies-nationales/plan-national-de-developpement-du-burundi-pnd-burundi-2018-2027/>, accessed September 15, 2023.

²⁴ The SNBLC has not been published.

²⁵ The LPBGLC has not been published.

operationalization documents for axis 13 of the PND BURUNDI 2018-2027 without providing for another substitute institution.

Good practices

- Corruption prevention policy documents have been drawn up, including the national Good Governance and Anti-Corruption policy letter and the SNBGLC for the period 2018 to 2027.

Deficiencies

- Corruption prevention policy documents have not been published or disseminated to interested parties. They are therefore not accessible to the public.
- In addition, monitoring and evaluation reports on their implementation are either non-existent or unknown to the public.
- The Ministry at the Presidency in charge of Good Governance was abolished during the second half of 2020, about two months after the adoption of the two operationalization documents for axis 13 of the PND BURUNDI 2018-2027 without providing for another substitute institution.

4.1.2 Preventive Anti-Corruption Body or Bodies (article 6 of the UNCAC)

At the time of the preparation of Burundi's self-assessment report and the publication of the executive summary of the official review already published by the UNODC on December 5, 2019, there were several public institutions for the prevention of corruption, including the Ministry at the Presidency in charge of Good Governance, the Court of Auditors, the General State Inspectorate, the General Inspectorate of Finance, the National Public Procurement Control Directorate, the Public Procurement Regulatory Agency, the general inspectorates set up within the ministries, the Special Anti-Corruption Brigade, the Public Prosecutor's Office attached to the Anti-Corruption Court, the Anti-Corruption Court, the Burundi Revenue Office, etc. With the exception of the Ministry of Good Governance, which was abolished in 2020, all the corruption prevention bodies that existed at that time are still in existence today.

The mandate of each institution as an anti-corruption body is made explicit by its mission statement, organization and operation, and implicitly by the legal nature of the institution, it being understood that the majority of these bodies are either specialized services for the promotion of Good Governance, including the prevention of corruption, or institutions for the investigation, prosecution and punishment of corruption and related offences, or police forces, or control and audit services, or public procurement regulatory services.

Procedures have been put in place to guarantee the allocation of the human, financial and material resources required to run these anti-corruption bodies, but the quality and quantity of these resources are on a par with the general budget of the State of Burundi voted by parliament. The relationship between the real operating needs of these bodies and the resources allocated to them is therefore relative. The same is true of their independence and autonomy, since some of these bodies, which enjoy organizational and financial autonomy, are subject to the supervision of the political authorities, while the day-to-day management of others is carried out under the instructions and directives of the hierarchical authorities of the central administration.

On the whole, codes of conduct, accountability, control and discipline mechanisms to minimize any misconduct or abuse of power on the part of the staff of anti-corruption bodies exist and are enshrined in the specific texts governing them. It should be noted that corruption prevention bodies such as the Special Anti-Corruption Brigade, which do not yet have specific texts governing their organization and operation, are governed by the general status of civil servants on a suppletive basis. In any case, for all matters not clarified by the

specific texts of these preventive bodies, the general status of civil servants applies as a suppletive solution.²⁶

The institutional structures for overseeing and evaluating the implementation of the national policy and strategy for good governance and the fight against corruption, as well as the action plan for implementing this policy and strategy, were the technical departments of the Ministry in the Presidency in charge of Good Governance, when it still existed. The Council of Ministers merely approved or revised the documents prepared by the technical departments of the aforementioned Ministry, while Parliament only intervened as part of its oversight of government action.

It should be pointed out that even the focal point of the UNCAC Review Mechanism for Burundi came under the direct authority of the Minister at the Presidency in charge of Good Governance. At present, it is not known which public institution has taken over the tasks of the Minister at the Presidency in charge of Good Governance. This probably explains the delay that is beginning to be considerable in replacing the UNCAC Review Mechanism focal point for Burundi, who resigned in the last half of 2020, and the unavailability of monitoring and evaluation reports on the implementation of the PND-BURUNDI 2018-2027 operationalization policy and SNBGLC.

The approach of the institutional structures to supervise and evaluate the implementation of the policy and the SNBGLC, as well as the action plan for the implementation of these documents, was based on the approach of privileging the synergy of action between all stakeholders, notably the various ministries, civil society organizations, the private sector, non-governmental organizations, technical and financial partners, the use of national and/or international experts, where appropriate, the organization of hearings of government members by deputies and senators, and the setting up of parliamentary commissions of inquiry or investigations by the Ombudsman's office. Nevertheless, the bulk of the work fell to the Ministry of the Presidency in charge of Good Governance.

As regards to the units or contact points between the ministries of the Government of Burundi and the departments responsible for implementing the policy and the SBGLC, the Ministry at the Presidency in charge of Good Governance had created focal points in all the ministries and other important sectors such as the National Assembly, the Senate and the Bank of the Republic of Burundi (the central bank). As the Ministry at the Presidency in charge of Good Governance no longer exists, and the public institution that has taken over these missions is unknown, and the situation regarding the implementation of the policy and the SBGLC is problematic.

Complaints and grievances submitted by citizens are handled by the reception and listening services of each ministry, the Ombudsman's office, the National Directorate for Public Procurement Control, the Public Procurement Regulatory Agency, the Special Anti-Corruption Brigade, the Public Prosecutor's Office at the Anti-Corruption Court and the Public Prosecutor's Office. Even civil society organizations such as ABUCO /T.I. and OLUCOME deal with cases of this kind, even if it means passing them on to the Special Anti-Corruption Brigade or the Public Prosecutor's Office for investigation and prosecution. Subject to the data available to the Public Procurement Regulatory Agency, statistics are not available on complaints and grievances received or processed.

²⁶ This is why the current law on the general status of civil servants is always cited in the preamble to texts on the organization and operation of ministries, public administrative establishments, personalized State administrations and publicly-owned companies (whose shares are wholly owned by the State of Burundi and/or one or more public entities).

Actions to prevent corruption through the development and/or dissemination of knowledge were carried out mainly by the technical departments of the former Ministry of the Presidency in charge of Good Governance, in synergy with other ministries and institutions specializing in the prevention, prosecution and punishment of acts of corruption and related offences. In addition, the Higher Institute of Police (ISP), which trains officers for the Burundi National Police, has designed a 30-hour training module on the fight against corruption. Now that the Presidential Ministry in charge of Good Governance has been abolished, the situation regarding the implementation of such actions is not known.

Burundian anti-corruption bodies foster good working relations with public bodies, civil society, the private sector and other stakeholders, and some of them cooperate internationally. In this respect, suggestion boxes have been set up in the various public administrations and anti-corruption bodies to report suspicious acts. Inspectors from Burundi's General State Inspectorate take part in training missions for the staff of the supreme audit inspectorates of certain INTOSAI member countries who so wish, within the framework of international cooperation.

Regular communication with the public in order to develop the confidence of corruption prevention bodies in their missions, independence, fairness and effectiveness had been carried out by the former Ministry to the Presidency in charge of Good Governance. In this regard, several public awareness campaigns had been organized throughout the country, in collaboration with other ministries and vital forces of the nation to combat the phenomenon of corruption and economic and financial malfeasance.²⁷

Good practices

- There are several sectoral anti-corruption bodies, and these are well known to the public.
- The Higher Institute of Police (ISP), which trains officers for the Burundi National Police, has designed a 30-hour training module on the fight against corruption.
- Suggestion boxes have been set up in various public administrations and anti-corruption bodies to report suspicious acts.
- Several public awareness campaigns had been organized throughout the country, in collaboration with other ministries and the nation's leading forces, to combat the phenomenon of corruption.

Deficiencies

- Since the abolition of the MPBG, there has been no national body coordinating the design of the national anti-corruption policy and the monitoring/evaluation of its implementation. The state of implementation of the policy and the SBGLC is problematic;
- The delay in replacing the country's focal point, who resigned in the last half of 2020, is beginning to be considerable;
- The legal framework governing the organization and operation of certain anti-corruption bodies is inadequate;
- Some corruption prevention bodies have capacity problems in terms of human, material and logistical resources;
- Some of these bodies, which enjoy organic and financial autonomy, are subject to the supervision of the political authorities, while the day-to-day management of others is carried out under the instructions and directives of the hierarchical authorities of the central administration;

²⁷ The website of the Ministry at the Presidency in charge of Good Governance was being created at the time of these campaigns. However, this ministerial institution was abolished in 2020. Several projects went with it.

- Subject to the data available to the Public Procurement Regulatory Agency, statistics are not available on complaints and grievances received or processed.

4.1.3 Public Sector Employment (article 7.1 of the UNCAC)

Law N°1/28 of August 23, 2006 on the General Statute for Civil Servants²⁸ (SGF) contains all the appropriate measures for the implementation of the provision of Article 7 paragraph 1 of the UNCAC concerning the recruitment procedure, probationary period, ethics, rules of conduct, rights and obligations of civil servants, remuneration and disciplinary regime of civil servants.²⁹

In Burundi's legal system, there is no distinction between the status of national civil servants and that of local authority civil servants. Civil servants are governed either by the SGF, or by special statutes such as those of the Judiciary, the Army, the Police, the Audit Office, the State Inspectorate, etc. (article 2 of the SGF).

Articles 4 to 6 of the FMS are clear on the ethics, rules of conduct, rights and obligations of civil servants.

The procedure for recruiting civil servants should normally involve wide publicity of vacancies through official job advertisements. Civil servants are recruited by competition or test, under the authority and responsibility of a national recruitment commission (article 12 of the SGF).

The FMS does not contain any specific recruitment procedures or requirements for selecting public servants for positions considered to be particularly prone to corruption and the possible early identification of potential conflicts of interest. However, some institutions, such as the National Police and the Burundi Revenue Authority (OBR), do transfer staff during employment, to avoid familiarity with the public, which can be one of the causes of corruption among the staff of these public institutions.

Articles 14 to 24 of the SGF govern the probationary period. Article 25 of the SGF sets out the conditions under which the civil servant may be appointed.

Education and training for public officials on issues concerning integrity and the skills needed as public officials are provided by the National School of Administration and the Professional Training Centre for the Judiciary.

The rules and procedures for civil servant rotation, i.e. the movement of staff in and out of the civil service, do not exist in the FMS. Nevertheless, a list of staff due to retire is drawn up each year. The staff concerned are notified before they retire.

Rules and procedures for the recruitment and hiring, retention and promotion of civil servants and other non-elected public officials exist in the Burundian legal system.

²⁸ Assemblée Nationale du Burundi, Lois promulguées en 2006, Item N°24, <https://assemblee.bi>, accessed September 15, 2023.

²⁹ The executive summary of the official review of Burundi already published by the UNODC on December 5, 2019 and the 2006 country self-assessment report (not published) were produced under the authority of Law N°1/28 of August 23, 2006 on the SGF. By Law N°1/03 of February 8, 2023, available at <https://assemblee.bi>, Assemblée Nationale du Burundi, Lois promulguées en 2023, Point n°3, the provisions of the 2006 SGF were amended. However, subject to the change in the numbering of the articles of the 2006 SGF, the letter and spirit of its provisions relating to the implementation of article 7 paragraph 1 of the UNCAC have not undergone any substantive change in the new 2023 SGF.

In practice, ghost civil servants in the public sector, i.e. public employees who receive salaries even though they don't exist or work, have existed and were the subject of an inspection report by the former Inspectorate General of Finance, which was transformed into the current Inspectorate General of the State in 2006.³⁰ The audit report found a significant amount of leakage of public funds due to a very high number of phantom civil servants.

Following the aforementioned audit report, the increase in civil servants' wage bill was stabilized. Nevertheless, the fear of the existence of fictitious civil servants is reappearing today. Indeed, in a communiqué in Kirundi from the Minister responsible for the civil service dated April 4, 2023, which was broadcast on Radio NDERAGAKURA from April 25 to April 2, 2023, in accordance with the instructions contained in the communiqué, the salaries of 432 civil servants have been temporarily suspended, pending proof from those concerned that they are actually in service, photocopies of their national identity cards and the account numbers used to pay their salaries.

The remuneration of civil servants is governed by articles 40 et seq. of the SGF. In Burundi, remuneration is the pecuniary consideration for the work performed, which the civil servant receives on a monthly basis and which includes the basic salary and, where applicable, bonuses and allowances (article 40 of the SGF). Within the limits of the means available to the Government of Burundi, the setting of basic salaries for civil servants takes into account the general level of prices, the level of salaries in the private sector, the level of salaries in the public sector and the level of Gross Domestic Product (paragraph 1 of article 42 of the SGF).

Minimum salaries by category are set in such a way as to ensure that civil servants enjoy dignity and consideration in society (paragraph 2 of article 42 of the SGF). The amount of a civil servant's basic monthly salary is determined by grade, rating and title bonuses. An Ordinance of the Minister responsible for the Civil Service sets the value of these bonuses (paragraph 3 of article 42 of the SGF). Civil servants of the same grade and step are entitled to the same basic salary (paragraph 4 of article 42 of the SGF).

Recruitment levels and the index scale are determined by decree, which specifies the date of their entry into force (paragraph 5 of article 42 of the SGF). Changes to the value of the index point or the index scale are made by decree: (paragraph 6 of article 42 of the SGF). The value of the index point is reviewed periodically to bring it into line with the criteria set out in paragraph 1^{er} of this article (paragraph 7 of article 42 of the SGF).

The amounts and criteria for granting bonuses and allowances are determined by a joint ordinance of the Ministers responsible for the civil service and finance, after consulting the Council of Ministers (articles 43 and 45 of the SGF).

The Constitution of June 7, 2018³¹ provides for general criteria relating to the eligibility of the President of the Republic (article 98), deputies (article 170) and senators (article 184). Law N°1/11 of May 20, 2019 amending Law N°1/20 of June 3, 2014 on the Electoral Code³² provides specific eligibility criteria for the President (articles then 94 and 95), deputies

³⁰ The audit was commissioned by the former Ministry of Good Governance. As the said Ministry no longer exists, the above-mentioned audit report of the ghost officials is difficult to find. The report has not been published in media articles, press releases or commentaries by civil society.

³¹ <http://www.presidence.gov.bi/wp-content/uploads/2018/07/constitution-promulquee-le-7-juin-2018.pdf>, consulted on October 25, 2022.

³² National Assembly of Burundi, Laws enacted in 2019, Item no. 7, <https://assemblee.bi>, accessed September 15, 2023.

(articles 125 and 126), senators (articles 158 and 159), hill or district councils and hill or district chiefs (articles 169 et seq.).

Good practices

- The legal framework is generally complete and accessible to the public.
- The education and training of public servants in matters relating to integrity and the skills needed as public servants are provided by the National School of Administration and the Professional Training Centre for the Judiciary.

Deficiencies

- The SGF does not contain specific recruitment procedures or requirements for selecting people for positions considered particularly exposed to corruption, or for the early identification of potential conflicts of interest;
- The SGF does not include requirements for an education and training program for people occupying public positions considered particularly vulnerable to corruption.
- Some institutions, such as the national police and the Burundi Revenue Authority (OBR), transfer staff during their employment to avoid familiarity with the public, which can be one of the causes of staff corruption in these public institutions;
- An audit report by the former Inspectorate General of Finance found that a very large number of ghost civil servants in Burundi had leaked public funds.

4.1.4 Political Financing (article 7.3 of the UNCAC)

The Constitution of June 7, 2018³³ stipulates that external financing of political parties is prohibited, except in exceptional cases established by law, and that any financing likely to undermine national independence and sovereignty is prohibited. It adds that the law determines and organizes the sources of funding for political parties (article 83). The Constitution further specifies that, in order to promote democracy, the law may authorize the funding of political parties on an equitable basis, in proportion to the number of seats they hold in the National Assembly. Such funding may apply to the operation of political parties as well as to election campaigns, and must be transparent. The same constitution states that the types of subsidies, advantages and facilities that the State may grant to political parties are determined by law (article 84).

Law no^o1/16 of September 10, 2011 revising Law no^o1/006 of June 26, 2003 on the organization and operation of political parties³⁴ sets out the rules applicable to the financing of candidacies for elective public office. Only natural persons of Burundian nationality may make gifts to political parties in the form of donations or legacies, provided that the lawful origin of these gifts can be established (article 20). Requirements aimed at avoiding conflicts of interest for political donations are set out in articles 40 et seq. All political parties must keep regular accounts and submit them to the Ministers of the Interior and Finance, and must be able to justify the origin and use of their financial resources (article 41). Access to these reports is limited to control and/or investigation institutions, such as the Public Prosecutor's Office, the General State Inspectorate, the General Inspectorate of Finance and the Special Anti-Corruption Brigade. In addition, a political party receiving state funding, or a coalition of political parties receiving donations or legacies, must make a declaration to the Minister of the Interior (article 45). Public disclosure of private and public donations and donors is required under article 45. The requirements for candidates and political parties to maintain separate accounts to finance political campaigns are set out in articles 40 and 41.

³³ <http://www.presidence.gov.bi/wp-content/uploads/2018/07/constitution-promulquee-le-7-juin-2018.pdf>, accessed September 15, 2023.

³⁴ Assemblée Nationale du Burundi, Lois promulguées en 2011, Item no. 13, <https://assemblee.bi>, accessed September 15, 2023.

The transparency of donations made by donors or legal entities, including those partially or wholly owned by the State, is guaranteed by articles 40, 41 and 45. The obligation on political parties and candidates to make regular financial declarations of donations and expenditure, before and after elections, is set out in articles 40, 41 and 45, as is the obligation to record relevant information on donations and expenditure, including the identification of individual donors and companies, interest or lobby groups.

The mandate and responsibilities of administrators or treasurers of political parties and political candidates in terms of transparency are set out in articles 40, 41 and 44. Subject to the provisions of articles 40, 41 et seq. of Law no^o1/16 of September 10, 2011 revising Law no^o1/006 of June 26, 2003 on the organization and functioning of political parties,³⁵ there are no other legal mechanisms for independently supervising the financing of political candidates and political parties that go beyond what is required by articles 40, 41 et seq. of this legislation.

Furthermore, Burundian legislation on the organization and operation of political parties is not explicit about the obligation to declare the income and expenditure of third-party actors who may campaign for or against political parties and coalitions or specific candidates. In the author's view, these third parties implicitly fall into the category of natural persons of Burundian nationality authorized to make gifts to political parties in the form of donations or legacies, provided that the lawful origin of these gifts can be established in application of article 20 of the above-mentioned law on the organization and functioning of political parties.

The regulatory authorities responsible for receiving declarations of income and expenditure are the Ministers of the Interior and Finance, pursuant to article 41 of the legislation on political parties. The authorities mandated to supervise or enforce the regulations on political financing and the sanctions applicable to candidates, political parties and coalitions of political parties found to have breached the legislation on political parties are of several kinds and vary according to the faults committed. These include Ministers of the Interior and Finance, officers of the Public Prosecutor's Office and any interested party (articles 62 et seq. of Law no^o1/16 of September 10, 2011 revising Law no^o1/006 of June 26, 2003 on the organization and operation of political parties).³⁶

The sanctions provided for under current legislation are proportionate (articles 62 et seq. of Law no^o1/16 of September 10, 2011 revising Law no^o1/006 of June 26, 2003 on the organization and functioning of political parties).³⁷ However, as there are as yet no cases relating to candidates, parties or coalitions of political parties that have been hit by these sanctions, it is not easy to affirm or deny that these sanctions are effective and dissuasive.

Good practices

- The legal framework is generally complete and accessible to the public.

Deficiencies

- Unavailability of data on cases where the legal framework on political financing has been applied.
- As there are as yet no cases of candidates, parties or coalitions of political parties having been hit by sanctions, it is not easy to affirm or deny that they are effective and dissuasive.

³⁵ Idem.

³⁶ Assemblée Nationale du Burundi, Lois promulguées en 2011, Item n^o13, <https://assemblee.bi>, accessed September 15, 2023.

³⁷ Idem.

4.1.5 Codes of Conduct, Conflicts of Interest and Asset Declarations (articles 7, 8 and 12 of the UNCAC)

The Code of Conduct for Civil Servants is integrated into the FMS. Nevertheless, certain bodies such as the police, the army, etc. have their own codes of conduct. In addition, articles 18 to 20 of the SGF apply, on a suppletive basis, in the event of shortcomings identified in specific codes of conduct or in the absence of a specific code of conduct. These codes are presented at the start of the probationary period (compulsory for civil servants) and an assessment of knowledge of the codes is made at the end of the probationary period. The SGF stipulates that civil servants must demonstrate, among other things, honesty, responsibility and integrity in the performance of their duties (article 18 paragraph 6) and provides for sanctions in the event of non-compliance with the code of conduct for civil servants (articles 87 et seq.).

Suggestion boxes for users wishing to report corruption and related offences are to be set up by public services, private establishments, non-governmental organizations, international institutions and organizations working in Burundi, as well as the Special Anti-Corruption Brigade (article 41 of law no.° 1/12 of April 18, 2006 on measures to prevent and punish corruption and related offences)³⁸ and a toll-free telephone number has been set up for this purpose.

The existence of suggestion boxes is a reality in the various departments of the Public Administration. Back in the days when the Ministry in charge of Good Governance still existed, suggestions were periodically processed by a member of the Ministry's staff, who then drafted a report to be sent to the Ministry's highest authority, together with a proposal for follow-up action or implementation of the suggestions deemed relevant. Even the toll-free telephone is a reliable means at the Special Anti-Corruption Brigade or OLUCOME for reporting suspicions of corruption, related offences and economic and financial malfeasance.

Decree-Law no°1/03 of January 31, 1989, setting out the incompatibilities attached to the functions of public officials and the procedures for verifying the lawful origin of their assets³⁹ stipulates that public officials and representatives may not engage in any activity likely to compromise their independence, or have any interest in a company likely to compromise their independence (article 8, paragraph 3). Public officials may not receive gifts (article 5 of the SGF). With regard to conflicts of interest, article 2 of decree-law no°1/03 of January 31, 1989 stipulates that declarations of interest must be made to the competent authority as defined in article 7 of said decree-law. Access to these declarations is not, however, public. However, there is as yet no specialized body or staff responsible for enhancing transparency and preventing conflicts of interest within the government.

The office of President of the Republic is incompatible with the exercise of any other electoral office, any public employment and any professional activity (Article 101 of the Constitution of June 7, 2018).⁴⁰ If the President of the Republic held a public office, he is automatically placed in a position of secondment as soon as the final results are announced. In the event that he held a private office, whether remunerated or not, on his own behalf or on behalf of a third party, he ceases all activity as soon as the final results are proclaimed (article 102 of the Constitution of June 7, 2018). As for deputies and senators exercising a function incompatible with their mandates, they are considered to have resigned automatically

³⁸ Assemblée Nationale du Burundi, Lois promulguées en 2006, Item no. 10, <https://assemblee.bi>, accessed September 15, 2023.

³⁹ Unpublished text.

⁴⁰ <http://www.presidence.gov.bi/wp-content/uploads/2018/07/constitution-promulguee-le-7-juin-2018.pdf>, consulted on September 15, 2023.

(articles 124 and 157 of law n°1/11 of May 20, 2019 amending law n°1/20 of June 3, 2014 on the Electoral Code).⁴¹

We are not yet aware of any cases in practice where the criteria for excluding a person from standing for election to an elected public office have been used to confirm or deny whether or not these criteria are applied, and if so, whether they are applied fairly.

The executives and agents of the Public Administration required to make a declaration of their assets on taking up their duties and on leaving them are determined by law (Article 151 of the Constitution of June 7, 2018). The law in question is Law no. 1/12 of April 18, 2006 on measures to prevent and punish corruption and related offences (articles 29, 32, 33, 34 and 35).⁴² Even officials in specialized bodies such as the judiciary are required to file asset declarations before or when they take up their duties, and when they leave office.

The declaration of assets is received confidentially on paper. However, there is no system for verifying declarations, no penalties for failing to submit declarations, for submitting false declarations or for submitting incomplete declarations, and no system for declaring outside activities, employment, gifts or benefits that could give rise to a conflict of interest with the duties of a public official. The preconditions for compliance with these provisions have therefore not been fully met. Today, the declaration of assets is actually an option, rather than a legal obligation.

Standards of ethical behavior to prevent the risks of corruption or conflicts of interest exist in several laws and have been widely disseminated by the technical services of the former Ministry of the Presidency in charge of Good Governance to public administration executives, members of government and members of parliament, in the form of workshops. This action deserves to be taken up by another institution.

Good practices

- The legal framework, while still imperfect, exists and is publicly accessible.
- The existence of suggestion boxes is a reality in the various departments of the Public Administration. Back in the days when the Ministry in charge of Good Governance still existed, suggestions were periodically processed by a member of the Ministry's staff, who then drafted a report to be sent to the Ministry's highest authority, together with a proposal for follow-up action or implementation of the suggestions deemed relevant.

Deficiencies

- The legal framework is still imperfect. For example, there is as yet no system for verifying declarations, no penalties for failing to submit declarations, for submitting false declarations or for submitting incomplete declarations, and no system for declaring outside activities, employment, gifts or benefits that could give rise to a conflict of interest.
- There is as yet no dedicated body or staff responsible for enhancing transparency and preventing conflicts of interest within government.

4.1.6 Reporting Mechanisms and Whistleblower Protection (articles 8.4 and 13.2 of the UNCAC)

⁴¹ National Assembly of Burundi, Laws enacted in 2019, Item no. 7, <https://assemblee.bi>, accessed September 15, 2023.

⁴² National Assembly of Burundi, Laws enacted in 2006, Item no. 10, <https://assemblee.bi>, accessed September 15, 2023.

The obligation of public servants to report acts of corruption of which they become aware in the course of their duties to the competent authorities is set out in article 5 point 3 of law n°1/28 of August 23, 2006 on the SGF⁴³, which stipulates that civil servants must not only refrain from any temptation or act of corruption, but must also act as anti-corruption agents, as defenders and protectors of the public service. Special offices have been set up in the various ministries as suggestion boxes for reporting acts of corruption.

Concerning the protection of whistleblowers, article 12 of Law n°1/12 of April 18, 2006 on the prevention and repression of corruption and related offences stipulates that during the investigation, inquiry and trial, the competent authority to whom the information provided for by this law has been submitted must take all necessary measures to ensure the protection of persons who have given information concerning the commission of the offences provided for by this law, who have provided any assistance or who have collaborated with the competent authorities in carrying out investigations or initiating prosecutions. This protection is also guaranteed to witnesses for the prosecution or defense. In addition, article 11 of law n°1/12 of April 18, 2006 on measures to prevent and punish corruption and related offences⁴⁴ stipulates that all staff of the Special Anti-Corruption Brigade are required to maintain confidentiality and secrecy with regard to their activities.

In concrete terms, with the exception of suggestion boxes for users wishing to report corruption and related offences discreetly, which are to be set up by public services, private establishments, non-governmental organizations, institutions and international organizations operating in Burundi, as well as the Special Anti-Corruption Brigade in application of article 41 of law no. 1/12 of April 18, 2006 on measures to prevent and punish corruption and related offences, and a toll-free telephone number set up for this purpose, there are no other mechanisms in place to protect members of the public who report acts of corruption, including physical protection and protection against reprisals in the workplace or elsewhere. Evidence that established channels for reporting violations of codes of conduct or ethical standards by public officials are used in practice does not exist. Reports can nevertheless be made anonymously via suggestion boxes.

Public awareness of the existence of suggestion boxes and a toll-free number had been raised by the former Ministry of Good Governance. But there are no information or guidance documents for whistleblowers. Whistleblowing cases may exist in Burundi, but it is forbidden to divulge them. Cases of repression against whistleblowers or "successful" cases where their reports have led to investigations and consequences for those responsible are not known. The available evidence does not suggest that whistleblowers are adequately protected in practice. There are no relevant cases, case law, reports, studies or statistics on the protection of whistleblowers and the effectiveness of whistleblowing and whistleblower protection mechanisms.

Good practices

- The legal framework of the whistleblower protection mechanism is publicly available.
- Special offices have been set up in the various ministries in the form of suggestion boxes for reporting acts of corruption, anonymously.

Deficiencies

- The whistleblower protection mechanism is incomplete – there is no physical protection and no protection against reprisals in the workplace or elsewhere.

⁴³ National Assembly of Burundi, Laws enacted in 2006, Item no. 24, <https://assemblee.bi>, accessed September 15, 2023.

⁴⁴ National Assembly of Burundi, Laws enacted in 2006, Item no. 10, <https://assemblee.bi>, accessed September 15, 2023.

- There are no relevant cases, case law, reports, studies or statistics on the protection of whistleblowers and the effectiveness of whistleblowing and whistleblower protection mechanisms.

4.1.7 Public procurement (article 9 paragraph 1 of the UNCAC)

Since January 2018, procedures for awarding and executing public contracts have been governed by Law no^o1/04 of January 29, 2018 amending Law no.°1/01 of February 4, 2008 on the Public Procurement Code (CMP).⁴⁵ The rules laid down by this new CMP are based on the principles of free access to public procurement, equal treatment of candidates and transparency of procedures, for the purposes of efficiency and economy in the management of public procurement and this, whatever the amount (articles 11 et seq. of the CMP).

Open tendering is the rule. Tenderers are not required to provide information on the beneficial owners of bids. Any other procedure may be used in exceptional cases (article 56 of the CMP). The CMP provides for the principle of advertising public procurement procedures. Failure to publish a notice of invitation to tender is sanctioned by the nullity of the procedure (articles 138 et seq.). The new legislation introduces a number of noteworthy innovations in the area of publicity for public procurement procedures.

In addition to the existence of bodies responsible for monitoring compliance with the rules governing the award and execution of public contracts, such as the National Directorate for Public Procurement Control (DNCMP) and the Public Procurement Regulatory Agency (ARMP), the new CMP has reduced and adjusted the deadlines for publication of tender notices and receipt of bids compared with the old CMP. Article 142 of the new legislation stipulates that in open procedures, the time limit for publication of tender notices and receipt of bids is 20 to 40 days for national tenders and 30 to 60 days for international tenders. For contracts subject to restricted procedures, the deadline for publication of tender notices and receipt of bids is 15 to 30 days for national tenders and 20 to 40 days for international tenders. Under the old CMP, the deadline for publication of tender notices and receipt of bids was 30 days for national tenders and 45 to 60 days for international tenders. With regard to restricted procedures, under the old CMP, the deadline for publication of tender notices and receipt of bids was 30 days for national tenders, and 45 days for international tenders. The modification of these deadlines was dictated by the desire to take into account the wishes of economic operators. Indeed, when preparing reforms to laws affecting the private sector, such as the trade, investment and public procurement codes, representatives of economic operators are consulted.

The new legislation has also decentralized procurement procedures for communes (articles 113 to 119), while the thresholds for a priori and a posteriori control of public contracts awarded by communes are currently set by O.M. N°540/288/2018 of 12/03/2018 in accordance with article 23 of the new CMP.⁴⁶

With regard to disputes concerning the awarding of public contracts, any aggrieved tenderer who so wishes must first appeal to the person responsible for public contracts (article 338 of the CMP). This appeal has suspensive effect (article 339 of the CMP). In the absence of a decision by the aforementioned person within five working days, the claimant may also refer the matter to the Dispute Settlement Committee (article 342 of the CMP), which delivers its

⁴⁵ National Assembly of Burundi, Laws enacted in 2018, Item No. 4, <https://assemblee.bi>, accessed September 15, 2023.

⁴⁶ The CMP application texts can be consulted on the public procurement website of Burundi's Public Procurement Regulatory Agency, www.arpmp.bi.

decision within 10 working days (article 343 of the CMP). The Dispute Resolution Committee's decision may also be appealed to a judicial body (article 350 of the CMP).

According to the Executive Secretary for Public Procurement, who spoke to us on November 2 and 24, 2022, although the CMP in force today is recent, it is not perfect. The related challenges are essentially linked to the staff of public procurement departments who are not specialized in public procurement management, to the lack of IT tools to enable electronic procurement, and to the difficulties in applying several provisions of the new legislation, which will have to be revised. In addition, technical and financial assistance is essential to make Burundi's current legislation on public procurement applicable, to train technical staff and to equip public procurement departments with appropriate IT tools.

Notwithstanding the challenges mentioned above, the public has access in due course to comprehensive information online on the ARMP website, including the list of companies banned from bidding, public procurement procedures, tender announcements, contracts awarded, successful bidders, relevant documents to be signed, such as contracts and amendments to initial contracts, documents accompanying contracts and amendments, and procedures for monitoring the performance and payment of public contracts.

There is no official record of cases where public contracts have been improperly awarded to avoid competitive procedures. Nevertheless, according to the President of OLUCOME,⁴⁷ several public contracts for chemical fertilizers, petroleum products, the army and the police, which are not classified as secret for national defense and security purposes, and whose foreign currency costs are very high, have been awarded without respecting competitive procedures.

Government assessments of the effectiveness of the public procurement system, and the extent to which it is based on transparency, competition and objective decision-making criteria, are carried out through the Public Procurement Technical Services. This is why the CMP is regularly revised.

Some statistics on public contracts awarded from 2020 to 2021

During the 2020-2021 financial year, 62 appeals and special dispensations were lodged with ARMP. However, only 60 appeals and special dispensations were processed and decided by the Regulatory Board. These decisions for fiscal year 2020-2021 are classified according to their qualification in the table below:

Qualification of appeals	Number of appeals	Percentage
Well-founded claims	21	42
Unfounded claims	25	50
Inopportune recourse	4	8
Total	50	100

Source: Agence de Régulation des Marchés Publics, Rapport annuel d'activités de la période de 2020-2021, www.arpmp.bdi.

Comments on this table: well-founded appeals account for 42%. This shows that contracting authorities are beginning to respect contract management procedures, which is the result of the training provided to them. Unfounded appeals account for 50%. This shows

⁴⁷ The President of OLUCOME was consulted several times during the evolution of this study, notably on November 17, 2022 and July 25, 2023.

that contracting authorities are beginning to comply with the Public Procurement Code. Untimely appeals account for 7%. This shows that some bidders are not familiar with the Public Procurement Code.

Public procurement disciplinary sanctions in fiscal 2020 to 2021

With regard to disciplinary sanctions in public procurement, some appeals lodged by contracting authorities have involved requests for disciplinary sanctions against defaulting bidders. Nevertheless, ARMP itself may identify disciplinary aspects in appeals lodged in the context of public procurement. In such cases, the Disciplinary Commission's remit is to impose the sanctions defined in article 362 of the Public Procurement Code,⁴⁸ on offending bidders, candidates or holders of public procurement contracts or public service delegations. During the 2020-2021 financial year, no public procurement player was sanctioned by the Public Procurement Regulatory Body.

Capacity-building for public procurement players

Capacity-building for those involved in public procurement in terms of procedures for awarding and executing public contracts, as well as litigation, is the cornerstone of public procurement regulation. Indeed, it helps to remedy the various procedural flaws regularly observed, either through cases of litigation, or through the results of compliance audits of public procurement and management procedures. During the 2020-2021 financial year, ARMP responded to training requests from various contracting authorities. The contracting authorities who requested and received training are listed in the table below:

N°	Contracting authorities	Number of participants
1	Burundi Press Agency	5
2	National Defense Forces	24
3	University of Burundi	10
4	Ecole Normale Supérieure	15
5	National Assembly	13
6	Buye Hospital	31
7	Kamenge Military Hospital	123
8	Gashoho Hospital	23
9	Mpanda Hospital	25
10	Water and electricity production and distribution company	92
11	Civil Service Mutual Insurance Agency	28
12	Civil Service Mutual Insurance	40
Total number of participants: 502		

Comments on the table: a total of 12 contracting authorities benefited from training in public procurement and management. All these 12 contracting authorities had submitted their requests during the 2020-2021 budget year. For this fiscal year, 502 people received training in public procurement and management.

Good practices

⁴⁸ National Assembly of Burundi, Laws enacted in 2018, Item No. 4, <https://assemblee.bi>, accessed September 15, 2023.

- Availability of annual activity reports and other important information, such as statistics, public procurement regulations, etc.
- Government assessments of the effectiveness of the public procurement system, and the extent to which it is based on transparency, competition and objective decision-making criteria, are carried out through the public procurement technical services.
- 502 people received training in public procurement and management during the 2020-2021 fiscal year.

Deficiencies

- Staff with no expertise in public procurement management;
- Lack of IT tools to enable electronic procurement;
- Difficulties in applying several provisions of this new legislation, including articles 35 paragraph 5, 42, 104, 168, 183, 193, 194, 235, 256, 271, 299 and 303 of the CMP.

4.1.8 Management of Public Finances (article 9 paragraph 2 of the UNCAC)

Budgeting has been results-based since the promulgation of Law N°1/20 of June 20, 2022, revising Law N°1/35 of December 4, 2008 on public finance.⁴⁹ The main headings of this new legislation governing public finances are as follows: (i) provisions on public resources and charges (articles 3 et seq.), (ii) provisions on the budget and budget policy (articles 9 et seq.), (iii) provisions on finance laws (articles 20 et seq.) and provisions on (iv) budget implementation (articles 45 et seq.).

Budgetary controls involving Parliament (article 63), the Court of Auditors (articles 64 et seq.) and the General State Inspectorate (article 68) have been organized by the Burundian legislature. However, the legal framework of the control services needs to be modernized in line with international standards.⁵⁰ In addition, human resources are insufficient and unstable, while logistical means are limited.

In the opinion of representatives of civil society organizations active in the fight against corruption and economic and financial malfeasance,⁵¹ there is no visibility on the sanctions imposed on mismanagement of public finances through incompetence and/or fraudulent intent, on the recovery of misappropriated public funds, or on the amounts recovered through the State's recourse action against its culpable public agents and representatives.

On the subject of known cases of public officials holding foreign assets of unknown origin that could be linked to corruption, the '*Panama Papers*' revelations of October 18, 2017 pinpointed the late former President of the Republic of Burundi. According to 'The Plunder route to Panama' report,⁵² the late former President has been implicated in the looting of

⁴⁹ National Assembly of Burundi, Laws enacted in 2022, Item no. 19, <https://assemblee.bi>, accessed October 25, 2022.

⁵⁰ On pages 45 and 47 of the document entitled "Orientations politiques et techniques en vue de la mise en œuvre du programme de réformes du cadre légal et institutionnel de prévention et de répression de la corruption et des infractions connexes" which was drawn up by an inter-ministerial commission under the coordination of the former Ministry at the Presidency in charge of Good Governance with the support of Burundi's technical and financial partners and sent to the Civil Cabinet of the President of the Republic in November 2015, it was recommended in particular to modernize the texts governing the Court of Auditors and the General State Inspectorate. The document has not been published, but remains topical.

⁵¹ See the list of people consulted on pages 4 and 5 of this study report for the full names of the representatives of civil society organizations we met, and the dates of our interviews with them.

⁵² Dw.com, Eric Topona, October 18, 2017, "Panama papers nail Nkurunziza," <https://www.dw.com/fr/les-panama-papers-%C3%A9pinglent-nkurunziza/a-41006340>, accessed September 18, 2023.

public resources in Burundi. According to the report, he took advantage of the political crisis in his country to enrich himself illegally. Part of the money embezzled from Burundi consisted of shares in the share capital of a hydrocarbon company in which he was a shareholder, with several hundred million dollars held in foreign accounts. The late former President is said to have acted in complicity with intermediaries, most of whom are citizens of Western countries who, thanks to suitable arrangements, help the rulers to plunder their own country, and with the commissions they receive, everyone benefits.

The Integrated Public Finance Management System (SIGEFI), which is interconnected with all ministries and other institutions, was implemented in January 2015. In concrete terms, SIGEFI is a new public finance management system that was created with the aim of regularly producing revenue and expenditure data and making it public through the following reform measures:

- i) definition of a legal and regulatory framework consistent with the organic law, the general public budget management regulations and the regulations applicable to the Receiver General of the Burundi Revenue Authority (OBR);
- ii) effective separation of the functions of authorizing officer and accountant for public expenditure;
- iii) regular recording of accounting entries and regular production of the trial balance;
- iv) the implementation of a new information system interconnected with all ministries and institutions, with the aim of improving accounting quality by producing reliable financial statements;
- v) production by the expenditure commitment controller of a quarterly report on the state of expenditure execution, sent to the ministry responsible, with a copy for information to the Minister of Finance, with credit managers (sectoral ministers) informed in real time of the level of consumption of their credits;
- vi) production of periodic (quarterly, half-yearly and annual) budget execution reports by the Budget Department, published on the Ministry of Finance website;
- vii) the production, at the end of each month, of a report on changes in headcount and payroll within the various ministries;
- viii) the production of the settlement law and the budget report which, after the vote in Parliament, is made public;⁵³
- ix) forward-looking cash management through the establishment of the Monetary and Budgetary Policy Coordination Committee and the State Treasury Committee⁵⁴, which hold regular meetings;
- x) drawing up a cash-flow forecast, accompanied by a draft finance bill to be submitted to parliament for vote.

It should be pointed out that information on budgetary procedures, the adopted budget, its implementation, the revenue collected, the main sources of income and an independent audit are available to the public, since the Court of Audit's reports on all these matters are accessible to the public on reasoned request and generally in written form.

Burundi is in the process of setting up an electronic document storage system to prevent forgery. However, the system is not yet operational. Accounting standards which provide for the archiving of supporting documents or other relevant provisions to preserve the integrity of books and accounting and financial statements or other documents relating to public expenditure and revenue and to prevent their falsification are specified in Law n°1/01 of January 16, 2015 revising Law n°1/07 of April 26, 2010 on the Commercial Code (articles 26

⁵³ The Budget Regulation and Account Act is produced annually by the government.

⁵⁴ The State Treasury Committee meets regularly on Fridays to assess the past week's cash receipts and disbursements, and to draw up the cash flow plan (receipts and disbursements) for the following week. The cash flow plan is sent to the Bank of the Republic of Burundi for proper execution.

to 33),⁵⁵ in Law no°1/09 of May 30, 2011 on the Private and Publicly-owned Companies Code (articles 66 to 81)⁵⁶, in Law no°1/18 of September 6, 2013 on tax procedures (articles 26 to 30)⁵⁷ and in the revised National Accounting Plan adopted by Ministerial Order no°540/1791 of November 7, 2012.⁵⁸

In the opinion of the focal point for the public finance sector,⁵⁹ Burundi needs technical assistance in capacity-building of human and logistical resources to support the implementation of the recent Law N°1/20 of June 20, 2022 revising Law N°1/35 of December 4, 2008 on public finance, to operationalize electronic archiving, and to produce and publish statistics on public finance management.

Some statistics on public finance management

Abnormal overrun of exemptions for fiscal year 2021-2022

N°	Category of beneficiaries	Amount (in Burundian francs, FBU, and US dollars, USD) ⁶⁰
1.	State, public enterprises and public works	12590427765 FBU (about 4.4 million US dollars, USD)
2.	Pharmaceutical and chemical products	11979071767 FBU (approx. USD 4.2 million)
3.	Private investments	76081629313 FBU (approx. USD 27 million)
4.	Local NGOs and non-profit organizations	793456356 FBU (approx. 280,000 USD)
5.	International organizations	1515774075 FBU (approx. 534,000 USD)
	TOTAL	102,960,359,958 FBU (approx. 36 million USD)

Source: Investigation report presented by OLUCOME President Gabriel RUFYIRI at the biannual CSO workshop on "Recovering misappropriated public funds" in Bujumbura, March 23, 2023.

Comments on the table: In the 2021-2022 financial year, the amount realized from exemptions was FBU 102 billion (approx. USD 36 million) compared with the planned budget of FBU 18 billion (approx. USD 6.3 million), i.e. an unauthorized overspend of FBU 84 billion (approx. USD 30 million). The beneficiaries of these exemptions were divided into five categories, namely the State, public enterprises and public works, pharmaceuticals and chemicals, private investments, local NGOs, non-profit organizations and international organizations. Exceeding the ceiling for authorized exemptions seems abnormal.

⁵⁵ National Assembly of Burundi, Laws enacted in 2015, Item no. 1, <https://assemblee.bi>, accessed September 15, 2023.

⁵⁶ National Assembly of Burundi, Laws enacted in 2011, Item no. 8, <https://assemblee.bi>, accessed September 15, 2023.

⁵⁷ National Assembly of Burundi, Laws enacted in 2013, Item no. 17, <https://assemblee.bi>, accessed September 15, 2023.

⁵⁸ Ministerial Order n° 540/1791 of November 7, 2012 has not been published on a known site.

⁵⁹ See the list of people consulted on pages 4 and 5 of this report for the full names of the public administration representatives we met and the dates of our interviews with them.

⁶⁰ The conversion of the FBU currency into USD was carried out on September 5, 2023 using <https://www.xe.com/>. It should be noted that the exchange rate of the Burundi franc into foreign currencies is highly volatile.

Differences between actual and forecast revenues and exemptions granted and authorized for fiscal 2021 to 2022

Revenue/Exemptions	Forecasts in FBU	Achievements in FBU and US dollars, USD
AMISOM and MINUSCA	3,000,000,000 FBU (approx. 1 million USD)	0 FBU
Burundi Mining and Quarry Office	3,557,560,000 FBU (approx. 1.2 million USD)	0 FBU
Recovery of misappropriated funds and embezzlement	1,213,786 FBU revenues (approx. 430 USD)	0 FBU
Exemptions	18,000,000,000 FBU (approx. 6.3 million USD)	102,960,359,958 FBU (approx. 36 million USD)

Source: Investigation report presented by OLUCOME President Gabriel RUFYIRI at the biannual CSO workshop on "Recovering misappropriated public funds", Bujumbura, March 23, 2023.

Table comments: not all revenue forecasts were achieved. In addition, the ceiling on authorized exemptions was largely exceeded.

Good practices

- Ambitious reforms to modernize public finance management have been launched and are currently being implemented. For example, Burundi is in the process of setting up an electronic system for storing supporting documents to prevent their falsification.

Deficiencies

- Legislation on the organization and operation of public financial control departments is inadequate by international standards.
- The electronic system for storing supporting documents to prevent falsification is not yet operational.
- The human resources of public finance control departments are insufficient and unstable, while material and logistical resources are limited.
- Sanctions against mismanagement and embezzlement of public funds are not sufficiently visible.
- Financial mismanagement and misappropriation of public funds are still challenges.

4.1.9 Access to Information and the Participation of Civil Society (articles 10 and 13.1 of the UNCAC)

Burundi has had a national communications policy and a communications strategy validated by the Government since July 10, 2013.⁶¹ Government communication is based on several values, including the right of all to information, which implies that information must be made available and that every citizen has the right to request the information they require.⁶²

⁶¹ National Communications Policy, July 2012, <https://mincotim.gov.bi/wp-content/uploads/2021/06/PNC-Adoptee-par-le-Gouvernement-1.pdf>, accessed September 5, 2023.

⁶² There are as of yet no studies to confirm or deny that licenses and the regulatory framework governing media such as television, radio, print and online media cannot be used for political or partisan purposes to restrict the investigation and publication of articles on corruption. The same

The vision of the Government Communication Strategy is that every Burundian and every partner should have access to the information they need on government action. The Government Communication Strategy therefore aims to provide a general orientation for informing national and international opinion about government action in a coherent and timely manner. The strategy sets out guiding principles that serve as a reference for the institutions and players involved in government communication. Its implementation, however, is a matter for all, including civil society and other actors involved in the prevention, prosecution and repression of corruption and related offences.

To date, Burundi has no legislation on public access to information. However, a draft law on the subject has been in the pipeline since 2017.⁶³ While the above-mentioned Communication Strategy provides for every citizen's right to information, no sanctions are provided for when it is not possible to effectively exercise this right. An information and communication unit has been set up in each ministry, and any citizen can request information from it. The Head of State and members of the government periodically organize radio broadcasts during which citizens can ask questions.

The participation of civil society in public decision-making processes is ensured through elections, popular initiatives and referendums. In addition, it was customary to consult several civil society groups during the process of drafting legislation, and awareness-raising campaigns on the promotion of good governance and the fight against corruption had been conducted through the media and workshops by the former Ministry to the Presidency in charge of Good Governance, in synergy with other public and private institutions. With the abolition of this ministry, there is no longer any systematic dissemination of national good governance and anti-corruption policy documents, and monitoring and evaluation reports on their implementation are currently unknown to the public. Nevertheless, awareness-raising campaigns on issues of integrity of public officials and the fight against corruption are regularly organized by Burundi's Head of State and relayed through the media,⁶⁴ although this should be the concern of all members of the Government.

Several initiatives have been taken by Burundi to bring the public administration closer to the population, such as the creation of a one-stop shop for business start-up formalities at the Investment Promotion Agency, the creation of a one-stop shop for formalities to obtain authorizations for the paid transport of people by the Ministry responsible for transport, the installation of improved systems and procedures within the Burundi Revenue Authority (OBR), the old, highly bureaucratic paper-based systems and procedures having been replaced by best practices and procedures supported by new IT systems; the creation of reception, listening and guidance services for public administration users in the various public institutions; the creation of regional civil service offices, etc. Freephone numbers have been set up so that anyone wishing to report suspected cases of corruption can do so anonymously to the Special Anti-Corruption Brigade and other interested public institutions.

applies to overly broad and excessive restrictions on the exercise of the freedom to seek, receive, publish and disseminate information.

⁶³ Burundi's self-assessment report (unpublished) and the analytical summary on Burundi's implementation of UNCAC Chapters II and V published by UNODC on December 5, 2019 confirmed that there is no law on public access to information. From then until now, such legislation has not yet been enacted.

⁶⁴ Messages from Burundi's Head of State on the integrity of public officials and the fight against corruption are relayed by several media, most notably by Radiotélévision Nationale du Burundi (RTNB), one of Burundi's state-owned media. To this day, the public media make every effort to be neutral and impartial.

Measures to promote an institutional culture of transparency, open data, open-door policies and regular communication between the government, civil society, the private sector and all stakeholders existed and were generally implemented by the former Ministry to the Presidency in charge of Good Governance. In the past, the said Ministry had initiated projects to educate, inform and raise awareness among citizens, executives and civil servants. As things stand, with the abolition of this ministerial institution, we can go no further on the achievements in this sector, and there is currently no official information on the political or administrative institution that has taken over its missions.

Concerning cases of journalists, civil society representatives or citizens allegedly denied access to politically sensitive information or documents without adequate justification, restrictions on the exercise of the freedom to seek, receive, publish and disseminate information, documented cases of media outlets, reporters, bloggers, civil society organizations or individual citizens prevented from reporting on corruption or reaching a wider audience with their reporting, recent cases of attacks on civil society groups, anti-corruption and human rights activists, journalists and others advocating or reporting on anti-corruption, documentation is not abundant given the country's general environment. One of the only available studies specific to this sector was recently carried out by OLUCOME consultant Professor Michel MASABO.⁶⁵

According to the results of this study, the activity of anti-corruption activists and human rights defenders has been limited by restrictions of various kinds. Obstacles can include impediments to their independence, harassment, intimidation and reprisals directed against civil society actors. Without being exhaustive, the study identified some forms of challenge, the most important of which are as follows:

Refusal of approval: The public administration is hostile to organizations whose activities are geared towards defending human rights or working on governance issues. The declaration and approval procedure is a means of filtering out undesirable organizations. When approval is refused on the grounds that the organization's purpose is contrary to the law, the case is heard. The organizations surveyed have not identified any known cases of refusal of approval. For example, in the same sector, a genuine trade union defending workers' rights will be duplicated by another, well in tune with the public administration. By way of illustration, alongside OLUCOME, another organization will present itself as a civil society player dedicated to the fight against corruption.

Interference in day-to-day activities: The police do not hesitate to intervene to disrupt the activities of civil society organizations. For example, according to the above-mentioned study, in March 2023,⁶⁶ the police attempted to suspend the work of a workshop organized by OLUCOME, even though the activity had obtained the necessary authorizations. This police intervention disrupted the normal progress of the workshop. Journalists covering the event had their work tools confiscated. This obviously restricted the right to information;

Inappropriate controls: One aspect of government interference in the management of non-profit organizations is the constant demand for information. It has been observed that the information sought often concerns sources of funding, especially foreign ones, with the obvious intention of limiting them. The requirement for prior declaration of any publication is an infringement of freedom of expression. While freedom of expression can be seen as the

⁶⁵ MASABO (M), Impact de la fermeture de l'espace civique sur le travail des militants anticorruption du Burundi et d'autres acteurs des droits de l'homme travaillant sur les questions de gouvernance, study carried out for OLUCOME in May 2023 (the report of this study has not yet been published), accessed August 4, 2023.

⁶⁶ Maître NDIKUMUKAMA (E), Atelier d'information et de sensibilisation sur le cadre légal de recouvrement des biens publics détournés, Bujumbura, March 23, 2023, accessed August 4, 2023.

right to seek, receive and impart information and ideas of all kinds, this obligation induces self-censorship to avoid being hit by measures generally given as intended, according to the Public Administration, to protect public order, the general interest or public safety;

Discretionary power: Discretionary power is the power of the public administration to act with a wide margin of freedom. This power easily leads to arbitrariness. It can be used to temporarily or permanently suspend media outlets on grounds of state security or public order. But the real reason will be to silence the media outlet concerned;

Judicial harassment: The public administration also uses judicial harassment. At the end of February 2023, members of civil society were arrested and thrown into prison. After two months in detention, they were released.⁶⁷ This unjust deprivation of liberty has a serious impact on their activities. In addition to being arbitrary, it causes sometimes irreparable damage;

Administrative relentlessness: The requirement for activity reports and the right to monitor associations in the field fall into this category. Reporting is good practice. But the right to follow-up in the field means that the public administration must check that the civil society player is taking orders from the executive. Otherwise, sanctions will be imposed;

Non-legal obstacles: Here too, obstacles to the activities of civil society organizations take many forms:

- **The hostile political environment:** instead of encouraging civic engagement, public authorities treat civil society actors with contempt. In 2006, the president of the ruling party likened journalists' broadcasts to the roar of airplanes (i.e., noise), and concluded by saying that journalists would end up roaring like airplanes.⁶⁸
- **Politicization of the activities of civil society organizations:** organizations that do not espouse the ideas of the public administration are accused of working with the opposition, the May 13, 2015 putschists or armed groups. The politicization of the activities of civil society organizations makes it impossible for them to carry out their missions on national territory;
- **Intimidation and smear campaigns:** official speeches accuse certain civil society organizations of working with foreign bodies that do not comply with national legislation or are opposed to the nation's interests. It is in this context that civil society organizations such as FORSC and FOCODE have been blacklisted. Anonymous telephone calls and death threats are commonplace. For example, a civil society actor was asked the age of his son, and advised to cease his activities if he wanted to continue living and educating his child. Media regulatory bodies brandish penal sanctions and the withdrawal of journalists' professional cards;
- **Online harassment:** anonymous messages are sent to intimidate members of civil society organizations. These messages are similar to telephone calls;
- **Surveillance:** surveillance is used to show members of civil society that their actions are known. The fact of being followed is a destabilizing factor: at any moment, anything can happen.

⁶⁷ MASABO (M), Impact de la fermeture de l'espace civique sur le travail des militants anticorruption du Burundi et d'autres acteurs des droits de l'homme travaillant sur les questions de gouvernance, study carried out for OLUCOME in May 2023 (the report of this study has not yet been published), accessed August 4, 2023, p.8.

⁶⁸ Idem.

The effects of measures to restrict civic space have had a largely negative impact on the activities of civil society actors. These effects can be observed in several avenues: the cessation of activities, the suspension of activities, the slowing down of activities and reconversion:

- **Stopping activities:** civil society organizations stopped their activities on the national territory. National organizations such as ACCORD and RCN Justice et Démocratie have closed their doors. Some have continued to work outside Burundi, but they are no longer close to their beneficiaries, funds are running out and the context is not favorable;
- **A slowdown in activities:** as partners withdrew, some civil society organizations slowed down their activities due to a lack of funding. Others preferred to dodge the storm by reducing their activities to a minimum;
- **Suspension of activities:** while waiting for the crisis situation to end, some civil society organizations have suspended their activities. For example, the Syndicat des Magistrats du Burundi (SYMABU) currently exists in name only;
- **Reconversion:** some civil society organizations have opted to deal with issues that do not upset the executive. For example, some civil society organizations have turned their attention to less sensitive areas such as health, education, food, etc.

To conclude the assessment of access to information and civil society participation, according to available data, with the exception of the ratification of the UNCAC and the African Union Convention on Preventing and Combating Corruption on January 18, 2005, Burundi has not yet joined any international initiatives aimed at promoting transparency. These include the Open Government Partnership (OGP), the Extractive Industries Transparency Initiative (EITI), the European Cooperation in the Field of Scientific and Technical Research (COST) and the International Conference on Open Data (CIDO).

Good practices

- The creation of one-stop shops to bring public services closer to users;
- Simplification of administrative procedures to reduce red tape;
- The old, highly bureaucratic paper-based systems and procedures have been replaced by best practices and procedures supported by new computer systems;
- The existence of toll-free numbers so that anyone who so wishes and civil society can anonymously report suspected cases of corruption;
- An information and communication unit has been set up in each ministry, and any citizen can request information from it;
- The Head of State and members of the government periodically organize radio broadcasts where citizens can ask questions.

Deficiencies

- Lack of legislation on public access to information;
- No sanctions are provided for when it is not possible to effectively exercise the right to information;
- Public inaccessibility to certain government actions such as certain documents on the design and implementation of the national policy on Good Governance and the fight against corruption, the SNBGLC for the period 2018 to 2027, sanctions against acts of corruption and misappropriation of public funds, amounts already recovered by the public treasury, etc.;
- The police tried to suspend civil society workshops, even though they had requested all the necessary authorizations beforehand;

- Public authorities often ask civil society organizations for information on sources of funding, especially foreign ones, with the intention of limiting them;
- At the end of February 2023, members of civil society were arrested and thrown into prison. After two months in detention, they were released;
- Instead of encouraging civic engagement, public authorities treat civil society actors with contempt;
- Associations that do not espouse the ideas of the Public Administration are accused of working with the opposition, the May 13, 2015 putschists or armed groups;
- Anonymous telephone calls and death threats are commonplace. Media regulatory bodies are brandishing the threat of criminal sanctions and the withdrawal of journalists' professional cards;
- The effects of the measures restricting civic space have had a largely negative impact on the activities of civil society actors, leading to the cessation of activities, the suspension of activities, the slowing down of activities and reconversion;
- Apart from ratifying the UNCAC and the African Union Convention on Preventing and Combating Corruption on January 18, 2005, Burundi has not yet joined any international initiatives to promote transparency.

4.1.10 Judiciary and Prosecution Services (article 11 of the UNCAC)

The independence of the judiciary is guaranteed by articles 2010 and 214 of the Constitution of June 7, 2018.⁶⁹ Nevertheless, in practice, articles 2010 and 214 of the June 7, 2018 Constitution are contradicted by articles 121, 161, 163 and 171 of Organic Law N°1/21 of August 3, 2019 amending Law N°1/07 of February 25, 2005 governing the Supreme Court.⁷⁰ In fact, article 2010 of the Constitution of June 7, 2018 specifies that justice is dispensed by the courts and tribunals throughout the territory of the Republic in the name of the Burundian people. As for article 214 of this constitution, it states that the judiciary is impartial and independent of the legislative and executive powers, that in the exercise of his functions, the judge is subject only to the constitution and the law, and that the President of the Republic is the guarantor of the independence of the judiciary.

It should be noted that, with regard to annulment, article 121 of the above-mentioned Organic Law N°1/21 of August 3, 2019 stipulates that it is the Minister of Justice who may refer to the Supreme Court's Chamber of Cassation rulings or judgments by which judges have exceeded their powers and obstructed the course of justice. On the other hand, with regard to the review of criminal cases, article 161 specifies that only the Minister of Justice may request the review of a criminal conviction by the Supreme Court, while article 163 adds that it is only the Minister of Justice who assesses whether or not the conditions for admissibility of the request for review have been met. Article 171 of Organic Law No. 1/21 of August 3, 2019, follows the same line as article 163 with regard to the review of civil and administrative cases.

The Minister of Justice not only interferes in the exercise of judicial power, but can also change his mind about the same case for which he himself has already initiated the review procedure. Indeed, in his letter N°550/34/CAB/2022 dated January 10, 2022,⁷¹ the Minister of Justice asked the Attorney General of the Republic to withdraw the application for review of a case he had submitted for review to the Supreme Court on the written instruction of the said Minister on April 13, 2021. Following the Attorney General's effective withdrawal of the

⁶⁹ <http://www.presidence.gov.bi/wp-content/uploads/2018/07/constitution-promulquee-le-7-juin-2018.pdf>, accessed September 15, 2023.

⁷⁰ National Assembly of Burundi, Laws enacted in 2019, Item no. 15, <https://assemblee.bi>, accessed September 15, 2023.

⁷¹ Letter N°550/34/CAB/2022 dated January 10, 2022 is one of the documents in this file, which was under review by the Supreme Court of the Republic of Burundi.

application for review of this case, the President of the Supreme Court issued Order N°003/2022 dismissing the case, thus closing the application for review of case RTC 2148.⁷²

According to public opinion, the independence of the judiciary is also violated by abuses on the part of certain hierarchical, administrative, political and military judicial authorities, who give secret instructions to judges to decide cases as they see fit, or take positions in the media on certain cases under investigation or trial, in order to indirectly influence the convictions of public prosecutors and/or judges.⁷³ This violation of the independence of the judiciary is known to the public under the expression "the order came from above", i.e. the order (unwritten and not officially known) has been taken, either by a hierarchical judicial authority, or by an administrative, political, military or police authority. Officers of the Public Prosecutor's Office and judges personally implicated in acts of corruption or other judicial blunders can also cover their tracks by claiming that they were merely carrying out "orders from above". It should be emphasized that no magistrate can publicly confess to this form of violation of the independence of the judiciary for fear of losing his or her job.⁷⁴ Nevertheless, it is a sad reality that must be combated by all those involved in the justice system in Burundi.

Moreover, articles 3.6 and 3.8, 4, 5 and 33 of Organic Law N°1/02 of January 23, 2021 amending Law N°1/13 of June 12, 2019 on the organization and functioning of the Superior Council of the Magistracy⁷⁵, which empower the latter to receive complaints and to reform, as a last resort, the judgments and rulings of judicial bodies that have already become res judicata, make the independence of the judiciary virtually non-existent. This situation is legally paradoxical, since the independence of the judiciary is enshrined in articles 2010 and 214 of the Constitution, while articles 215 and 216 of the same Constitution do not give the High Council of the Judiciary any jurisdictional powers.

The integrity of judges and the prevention of corruption within the judiciary are guaranteed by a number of laws and regulations. Before outlining the content of these texts, it is necessary to point out that, in Burundi's legal system, prosecution service officers are officers of the public prosecutor's office. Although their duties are distinct from those of judges, they are subject to the same rules of integrity. Article 4 paragraphs 2, 3, 4 and 5 of Law N°1/001 of February 29, 2000 reforming the status of magistrates requires candidate magistrates to be of irreproachable conduct, and rejects applications from candidate magistrates who do not enjoy their civil and political rights, who have been dismissed from a public office other than a political mandate and those who have been sentenced, except in the case of a judicial pardon or conviction for an unintentional offence, to two months' penal servitude or to several sentences the total of which does not exceed six months' penal servitude.

Article 18 of Law N°1/12 of April 18, 2006 on Measures to Prevent and Punish Corruption and Related Offences⁷⁶ stipulates that magistrates of the Anti-Corruption Court and the Public Prosecutor's Office must be of irreproachable moral character and unflinching integrity.

⁷² Order N°003/2022 of dismissal is one of the exhibits in dossier RTC 2148.

⁷³ The expression "l'instruction est venue d'en haut" ("instruction comes from on high") is a translation of the Kirundi expression "Itegeko ryavuye hejuru" ("Itegeko ryavuye hejuru"), which is well known to all sections of the Burundian population, including lawyers, magistrates, economic operators, the police, etc. It is also used in the language of Burundi.

⁷⁴ This opinion was confirmed by the President of the Bar Association of the Bujumbura Court of Appeal, whom we met in his chambers on 14/11/2022.

⁷⁵ National Assembly of Burundi, Laws enacted in 2021, Item no. 2, <https://assemblee.bi>, accessed September 15, 2023.

⁷⁶ National Assembly of Burundi, Laws enacted in Item no. 10, <https://assemblee.bi>, accessed September 15, 2023.

Article 34 of Decree N°100/114 of 30 April 2013 on the Code of Ethics for Magistrates,⁷⁷ specifies in particular that "Integrity constitutes an institutional and personal requirement at the service of the proper administration of justice". Articles 72 paragraph 2 and 80 paragraphs 19 and 20 of Decree No. 100/114 of April 30, 2013 on the Magistrates' Code of Ethics prohibit magistrates, in particular, from committing acts of misappropriation or falsification of investigation or hearing minutes and other procedural documents or documents placed in judicial files, fraud, bribery, corruption and abuse of office. Articles 29 to 33, 61 to 70 and 77 to 103 of Decree no. 100/114 of April 30, 2013 on the Magistrates' Ethics Guide deal respectively with training, the professional development of magistrates and prosecution service officers, the supervision of judicial functions and their assessment, as well as the sanctions to be taken against magistrates and prosecution service officers who violate the said guide.

Article 44 of Law 1/12 of April 18, 2006 on Measures to Prevent and Punish Corruption and Related Offences provides for more severe penalties for judges and arbitrators guilty of corruption in the disputes they adjudicate. Lastly, article 45 also calls for more severe penalties for officers of the Public Prosecutor's Office who receive or accept offers or promises of offers for the purpose of taking a decision they should not take.

To the question of whether the codes of conduct and disciplinary mechanisms applicable to judges and agents of the prosecution services have been drawn up in accordance with international standards, the answer is affirmative. Decree no. 100/114 of April 30, 2013 on the ethics and disciplinary guide for magistrates in the Republic of Burundi⁷⁸ complies with the spirit of the Bangalore Principles of Judicial Conduct, i.e. the United Nations Basic Principles on the Integrity of Magistrates⁷⁹ for several reasons.

On the one hand, articles 5 to 70 of the said decree enshrine the principles and rules of judicial ethics, namely independence, impartiality, legality, diligence, training and professional development, integrity, dignity, loyalty, courtesy and respect for the rights of all parties, the duty of reserve and political neutrality, as well as the supervision and assessment of judicial functions. In addition, article 3 of the decree stipulates that all magistrates undertake, through the oath they take before taking up their duties, to respect professional ethics and discipline. Lastly, article 4 of the decree states that failure to perform the duties of a magistrate, or breach of the terms of the oath, constitutes a disciplinary offence liable to sanction in the interests of justice.

Generally speaking, according to the Codes of Civil and Criminal Procedure, hearings are in principle public and anyone with a legitimate interest has access to justice and to judicial decisions and documents. There are no complaints in this respect from litigants or legal practitioners.

With regard to the procedures for declaring the assets of judges and officers of the Public Prosecutor's Office, article 151 of the 2018 Constitution stipulates that executives and agents of the Public Administration are obliged to make a declaration of their assets on taking up and leaving office, and that a law determines the competent jurisdiction and the procedure to be followed. The law in question is Law no°1/12 of April 18, 2006 on measures to prevent and punish corruption and related offences (articles 29, 32, 33, 34 and 35).⁸⁰ Even judges are required to file asset declarations before or when they take office, and when they leave office.

⁷⁷ The link to the site hosting this text does not exist.

⁷⁸ The link to the site hosting this text does not exist.

⁷⁹ Bangalore Principles of Judicial Conduct, UNODC, 2019,

https://www.unodc.org/documents/ji/training/19-03890_F_ebook.pdf, accessed September 5, 2023.

⁸⁰ National Assembly of Burundi, Laws enacted in 2006, Item no. 10, <https://assemblee.bi>, accessed September 15, 2023.

The declaration of assets is received confidentially on paper. As a result, asset declarations are not made public for all persons subject to this obligation, including judges and officers of the public prosecutor's office. Burundi has no legal system for verifying declarations, no penalties for failing to submit declarations, for submitting false declarations or for submitting incomplete declarations, and no legal system for declaring outside activities, employment, gifts or benefits that could result in a conflict of interest with the duties of a public official, judge or officer of the public prosecutor's office.

Article 8 of Law N°1/001 of February 29, 2000 on the Status of Magistrates⁸¹ confirms the principle of competitive examination for magistrates and prosecutors. This article states that the Ministry of Justice, in collaboration with the High Council of the Judiciary, shall organize⁸² a competitive examination, the terms of which it shall determine. To this end, the Ministry of Justice recruited magistrates by competitive examination for two successive promotions in 2014 and 2015.⁸³ These competitive examinations were organized in full transparency, and the magistrates selected underwent a two-year probationary period with training organized by the Professional Training Centre for the Judiciary.⁸⁴

All the above measures have contributed to improving transparency within the judicial services, efficiency, discipline and the quality of magistrates and public prosecutors, at least in terms of the legislative and regulatory framework.

Some actions to promote good judicial governance were listed by representatives of the Ministry of Justice⁸⁵ including Ministerial Order n°550/293 of February 28, 2012,⁸⁶ setting up reception and orientation offices for users of judicial services in all jurisdictions of the Republic of Burundi, the institutionalization of the organization, each year, of an open day for the Ministry of Justice, including the magistracy and prosecution services, the publication of a user's guide to the public justice service and its translation into Kirundi (the national language of the Republic of Burundi), so that it can be consulted by all Burundians,⁸⁷ the appointment of justice inspectors in the judicial areas of the appeal courts, with a view to bringing the justice inspection services closer to those subject to the law, the organization of itinerant visits by magistrates whenever necessary, and the disclosure of deadlines for pronouncing judicial decisions when cases are taken under advisement.

Magistrates and prosecution officers have already been disciplined for breaches of the code of conduct that governs them. Disciplinary sanctions are taken by hierarchical superiors and the High Council of the Judiciary, and can go as far as dismissal. Decree no°100/099 of August 10 2022, which recently dismissed 40 magistrates, including 25 from the basic courts and 15 from the higher courts⁸⁸, has been welcomed by the public. However, according to legal practitioners, disciplinary sanctions against magistrates should be extended to all levels of basic and higher jurisdictions, prosecutor's offices and public prosecutor's offices, to truly reinforce integrity within the entire judiciary.

⁸¹ The link to the site hosting this text does not exist.

⁸² The Conseil Supérieur de la Magistrature is the institution that manages the career and discipline of magistrates and public prosecutors.

⁸³ Burundi self-evaluation report (unpublished) sent to UNODC in November 2016 on page 125.

⁸⁴ This good practice, which had been initiated by the Centre de Formation Professionnelle de la Justice with financial support from a Belgian Technical Cooperation project, was abandoned following the suspension of the project's activities.

⁸⁵ Burundi self-evaluation report (unpublished) sent to UNODC in 2016 on page 126.

⁸⁶ The link to the site hosting this text does not exist.

⁸⁷ However, this document was made available at the time by a Belgian Technical Cooperation project, which suspended its support to Burundi. Its accessibility is not obvious in its current state.

⁸⁸ National Assembly of Burundi, Laws enacted in 2008, Point n°2, <https://assemblee.bi>, accessed September 15, 2023.

In the opinion of the Bujumbura Bar Association, the representative of the justice sector in the UNCAC review mechanisms and civil society, who were consulted during the course of this study, Burundi needs technical and financial assistance to build the capacity of the judiciary in order to improve the quality of its human and logistical resources and strengthen good judicial governance.

Good practices

- Existence of very clear and precise constitutional provisions on the independence of judges;
- Existence of a comprehensive legal framework governing the ethics and professional conduct of judges and prosecution services;
- The High Council of the Judiciary recently dismissed 40 magistrates, including 25 for the basic courts and 15 for the higher courts.

Deficiencies

- The independence of the judiciary is enshrined in articles 2010 and 214 of the Constitution, and articles 215 and 216 of the same Constitution do not give the High Council of the Judiciary any jurisdictional powers;
- The Minister of Justice not only interferes in the exercise of judicial power, but can also change his mind on the same case whose review procedure has already been initiated by himself;
- Public prosecutors and judges personally implicated in acts of corruption or other judicial blunders can also cover their tracks by claiming that they were merely carrying out "orders from above";
- Insufficient quality and quantity of human resources;
- Insufficient material and logistical resources for the judiciary and public prosecutors' offices.

4.1.11 Measures to Prevent Money Laundering (article 14 of the UNCAC)

Since 2008, Burundi has had legislation aimed at preventing money laundering. This is Law N°1/02 of February 4, 2008 on the Fight against Money Laundering and the Financing of Terrorism (LBCFT). The purpose of this law is to combat money laundering and the financing of terrorism. It contributes to supporting international efforts to combat all forms of terrorism, to deal with related sources of financing and money laundering within the framework of international conventions ratified by Burundi (article 1).

Article 12 of the LBCFT calls for the creation, within the Ministry of Finance, of a specialized unit responsible for combating money laundering and the financing of terrorism, known as the National Financial Intelligence Unit (CNRF), an administrative unit with legal personality responsible for receiving and processing suspicious transaction reports and transmitting the resulting report and other information concerning acts likely to constitute money laundering and the financing of terrorism to the Public Prosecutor's Office. The same article 12 of the LBCFT stipulates that an implementing text shall specify its organization, composition, powers, conditions for ensuring or reinforcing its independence, as well as the content and procedures for transmitting the reports sent to it. In this regard, OM N°540/791 creating the CNRF was signed on May 25, 2010 by the Minister of Finance.⁸⁹

At the time this OM was signed, the CNRF was made up of representatives from the Ministries of Finance, Justice, Public Security, Trade and Industry, the Bank of the Republic of Burundi (BRB), the National Intelligence Service (SNR), the General Commissariat of the

⁸⁹ The link to the site hosting the text does not exist.

BSAC, the Association of Banks and Financial Institutions (ABEF), the Association of Professional Accountants (OPC) and the Federal Chamber of Commerce and Industry (article 5 of O.M N°540/791 of May 25, 2010 establishing the CNRF).

The CNRF sets up one or more databases containing all relevant information concerning the suspicious transaction reports provided for in this law, the transactions carried out and the persons who carried out the transaction, either directly or through intermediaries. This information is kept up to date and organized in such a way as to optimize the research required to substantiate or dispel suspicions (article 13). The CNRF is required to keep all related information and documents for a period of ten years from the date of closure of a case referred to it (article 14).

The CNRF is authorized, spontaneously or on request, to provide, receive or exchange information with the financial intelligence units of another country and its foreign counterparties with similar functions, concerning suspicious transaction reports, provided that there is reciprocity and that the counterparties concerned are bound by the same obligations of professional secrecy. When it receives a request for information or transmission from a counterpart foreign service dealing with a suspicious transaction report, it acts on it within the scope of the powers conferred on it by the present law to deal with such reports (article 15).

The persons referred to in article 3 of the LBCFT who suspect or have sufficient reason to suspect that funds constitute the proceeds of an offence or are linked to the financing of terrorism, or who have knowledge of a fact which could be an indication of money laundering or the financing of terrorism, are required to make a declaration to the CNRF without delay, in accordance with the format established by the latter. Particular attention should be drawn to any transaction worth more than twenty million Burundi francs (around US\$960), which is unusually complex or unjustified, or which appears to have no economic justification or lawful cause. The entity, which is required to report the matter immediately to the unit, will also be obliged to obtain information on the origin and destination of the money, the purpose of the transaction and the identity of the parties involved (article 16).

Suspicious transaction reports submitted to the CNRF must contain at least the identity and other identifying details of the reporting entity, including the name and contact details of the reporting officer, the identity and other identifying details of the customer and, if applicable, of the beneficiary of the transaction, the nature of the transaction or activity reported as suspicious and its details - amount, currency, date and parties involved - including the account number and details of the account holder, and a brief description of the reasons and particularities giving rise to the suspicion.

The reporting obligation also applies to attempted operations. Professional secrecy cannot be invoked. However, notaries and lawyers are not obliged to make a declaration if the information they hold has been received in the course of assessing their client's legal situation or in the course of fulfilling their duty to represent that client in judicial, administrative, arbitration or mediation proceedings, including advice on how to initiate or avoid such proceedings (article 17).

The declaration concerns transactions that have not yet been carried out, unless it has been impossible to postpone their execution, or where it has become apparent, after the transaction has been carried out, that the sums in question could be the proceeds of criminal activity or be intended for the financing of terrorism. The declaration is sent by fax or, failing that, by any other written means. Declarations made by telephone or e-mail must be confirmed by fax or other written means as soon as possible. The declaration must indicate the deadline by which the operation must be carried out or, if it has already been carried out, the reasons why it has already been carried out (article 18).

As soon as the analysis of the information gathered by the CNRF reveals evidence of a criminal or terrorist financing offence, it sends a report on the facts, together with its opinion, to the Public Prosecutor, who decides what action to take. This report is accompanied by all relevant documents, with the exception of the suspicious transaction reports themselves. The identity of the person filing the report must not appear in the report (article 19). As soon as the information gathered brings to light facts that may relate to criminal activities or the financing of terrorism, the Unit refers the matter to the Public Prosecutor, specifying, where appropriate, the investigation or inspection departments that have been asked to carry out investigations (article 20).

The CNRF does not have a monopoly on combating money laundering. Other bodies involved in preventing and punishing money laundering include the BSAC, the SNR, the Public Prosecutor's Office and the courts responsible for prosecuting corruption and related offences. Paradoxically, there are as yet no known cases of application of the provisions of the anti-money laundering law.

The CNRF is not yet a member of the Egmont Group or other networks or organizations for the purpose of exchanging information, and has not yet signed memorandums of understanding or other agreements with other financial intelligence units for the purpose of exchanging information. Burundi has observer status with the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG). According to the information gathered, the country has not yet been evaluated by the FATF, by a regional body similar to the FATF, or by any other international organization that carries out evaluations on anti-money laundering topics.

During the country visit that was carried out in 2017 by the experts who reviewed Burundi's implementation of Article 14 of the UNCAC, it was explained that the CNRF had never become operational and had, for example, never received any reports of suspicions. The review team was informed that there were plans to completely restructure national measures to prevent money laundering in Burundi. The team expressed great concern at the vacuum created by the lack of reorganization of this key institution, given that the CNRF should have been up and running seven years ago. Currently, Burundi is 12 years behind schedule in setting up a functional CNRF. This delay seems considerable and without explanation.

The said expert examiners also noted that exchanges of information at the national level could take place both formally, through the Public Prosecutor's Office and the BSAC, and informally (article 15 of the LBCFT). However, at the time of the country visit, information exchanges via the INTERPOL system had not yet concerned corruption offences. No new information was received by the consultant as part of this review.

They also noted that cross-border cash movements are not regulated. With regard to financial institutions, the review team was informed that, although representatives of state-owned and private banks had participated in a number of IMF and World Bank training courses, there were no specific regulations for the electronic transfer of funds. The LBCFT indicates, among other things, measures to be taken concerning customer identification (article 4) and the preservation of documents for 10 years (article 14), but as mentioned above, the law is not applied in all its provisions.

During discussions with the Permanent Secretary of the CNRF and another member of the CNRF on the occasion of this study,⁹⁰ the political will of the Government of Burundi to make

⁹⁰ Discussions took place on November 2 and 8, 2022 with Dr BANO Innocent and Ms KWIZERA Sylvie, respectively Permanent Secretary and member of the CNRF.

the CNRF operational was confirmed. This is reflected in the signing of new texts, including Decree N°100/044 of March 16, 2020 on the creation, missions, organization and operation of the CNRF in Burundi,⁹¹ and OM N°540/3200/2022 of 16/08/2022 appointing the Permanent Secretary of the CNRF,⁹² the work in progress to draw up a plan for the effective establishment of the CNRF, and the project under preparation to apply for Burundi's membership of the Group of East and Southern African Countries against Money Laundering and the Recovery of Illicitly Acquired Assets.

Burundi needs technical assistance to reform the legal framework for combating money laundering and recovering ill-gotten assets, and to strengthen the human and logistical capacities of all public and private institutions involved in financial intelligence, such as the CNRF, the police, the public prosecutor's office, the central bank, commercial banks, bureau de change and money transfer offices, and so on.

Good practices

- The legislation is comprehensive in the sense that it covers various aspects and measures to prevent money laundering, providing, for example, for the creation of a specialized anti-money laundering unit: the CNRF. However, effective implementation and enforcement of the legal provisions is still necessary if good practice is to be observed in this respect.

Deficiencies

- Anti-money laundering legislation needs to be updated - there are as of yet no known cases of application of the provisions of the anti-money laundering law;
- The CNRF is not yet up and running, and the backlog is becoming considerable;
- The CNRF is not yet a member of the Egmont Group or other networks or organizations for the purpose of exchanging information, and has not yet signed memorandums of understanding or other agreements with other financial intelligence units for the purpose of exchanging information.

⁹¹ The text has not yet been published.

⁹² The text has not yet been published.

4.2 Chapter V: Asset recovery

With regard to Chapter V of the UNCAC, the following articles were commented on and analyzed:

4.2.1 Anti-Money Laundering (articles 52 and 58 of the UNCAC)

Article 4 of the LBCFT requires all establishments and persons⁹³ covered by article 2 of this law to verify the identity of their customers. In fact, article 4 of the LBCFT stipulates that all establishments and persons covered by article 2 of this law must identify their customers by means of a conclusive document and verify their identity when they enter into a business relationship, for all occasional transactions whose amount reaches or exceeds the sum of twenty million Burundi francs (approximately USD \$960), whether the transaction is carried out in a single operation or in several operations between which there appears to be a link. This obligation also applies to any customer applying to open an account, when they carry out occasional transactions in the form of electronic transfers, when there is a suspicion of money laundering or terrorist financing, when there is doubt as to the veracity or relevance of customer identification data, and when a transaction of an unusual nature has no apparent economic or lawful purpose. The scope of the fight against money laundering is therefore extended to entities other than banks and financial institutions, given the list of natural and legal persons whose customers' identity must be verified under article 4 of the LBCFT.

Identifying and verifying the beneficial ownership of linked accounts or funds, including those held in the name of legal entities, falls within the scope of the inventory of cases in which the obligation to verify the identity of customers set out in article 4 of the LBCFT applies to all the institutions and persons referred to in article 2 of this law. In the course of this study, no cases were brought to the consultant's attention. In addition, pursuant to article 5 of the LBCFT, financial institutions must exercise increased vigilance when entering into relationships with politically exposed persons. Article 5 of the LBCFT stipulates that in the case of relationships with politically exposed persons, financial institutions must, in addition to normal vigilance measures, have adequate risk management systems in place to determine whether the customer is a politically exposed person, obtain the authorization of senior management before entering into a business relationship with such customers, take all reasonable measures to identify the origin of assets and funds, and ensure reinforced and continuous monitoring of the business relationship.

It should be pointed out that the concept of a politically exposed person covers any person who performs or has performed important public functions in Burundi or in a foreign country, without distinction between nationals and foreigners. In fact, article 2, paragraph 12 of the LBCFT specifies that a person who performs or has performed important public functions in Burundi or in a foreign country is: the head of state or government, a member of the government, a high-ranking politician exercising or having exercised responsibilities at national level and/or at the level of a political group or an international organization, a civil servant with a rank equal to or higher than that of department director, the director of a public company, a magistrate and a senior officer in the army or police force. However, the LBCFT does not extend the obligation of heightened surveillance to family members or close associates. Nor does it provide for measures to identify the beneficial owners of funds deposited in large accounts.

⁹³ The establishments and persons in question are: financial institutions authorized under article 19 of law n°1/017 of October 23, 2003 on the regulation of banks and financial establishments; bureau de change, insurance companies carrying out life insurance business, brokerage firms, casinos and gambling establishments; microfinance establishments; the post office; real estate agencies and any other person carrying out in a professional capacity one of the activities covered by the definition of financial institution, among many others.

The UNCAC expert reviewers have already specified in the summary of their review report on Burundi published by the UNODC on December 5, 2019, that this country has not issued guidelines on the application of the measures provided for in Article 52 of the UNCAC. Furthermore, it does not have a system for notifying, at the request of third-party States or on its own initiative, persons for whom increased monitoring is planned.⁹⁴

In accordance with articles 8 and 9 of the LBCFT, financial institutions are required to retain data relating to the transactions they have carried out. This includes documentary evidence used to identify customers, as well as any documents relating to transactions carried out by customers.

As for Article 52 of the 2015 Commercial Code,⁹⁵ it states that no foreign commercial establishment, banking or otherwise, may be registered in Burundi without having a physical presence there. Nevertheless, it is not specified whether or not the legislation prohibits foreign banks from opening accounts in legally established banks. This is a gap in the code that needs to be filled.

Burundi's asset declaration system is established for all types of public officials in accordance with article 151 of the Constitution of June 7, 2018 and articles 29 and 32 to 35 of law no. 01/12 of April 18, 2006 on the prevention and repression of corruption and related offenses. Burundi's legislation makes no provision for the declaration of accounts domiciled abroad.

Article 12 of the LBCFT law provides for the creation of the CNRF. This unit, which was created by OM n°540/791 of May 25, 2010, is not operational, in violation of article 58 of the UNCAC. Burundi is currently 12 years behind schedule in setting up a functional CNRF. This delay seems considerable, even though the public administration representatives interviewed for this study affirmed that the political will of the Government of Burundi is to speed up the formalities required for the CNRF to become operational.

When asked whether Burundi regularly carries out a money laundering risk assessment to identify AML risks and vulnerabilities, the CRNF did not provide documentary evidence of such an assessment. Furthermore, Burundi is not a member of the FATF and has never been examined by this organization.

Good practices

- Effective implementation and enforcement of legal provisions remains a prerequisite for good practice in this area.

Deficiencies

- Anti-money laundering legislation is still flawed: the 2015 Commercial Code does not specify whether or not the legislation prohibits foreign banks from opening accounts in legally established banks;
- The LBCFT does not extend the obligation of increased supervision to family members or close associates. Nor does it provide for measures to identify the beneficial owners of funds deposited in large accounts;
- Burundi does not have a notification system, either at the request of third countries or on its own initiative, for persons whose increased surveillance is planned;

⁹⁴ CAC/COSP/IRG/2019/CRP.17, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group, Second part of the resumed tenth session held in Abu Dhabi, December 17 and 18, 2019, Executive Summary: Burundi, December 5, 2019, p.10.

⁹⁵ National Assembly of Burundi, Laws enacted in 2015, Item no. 1, <https://assemblee.bi>, accessed September 15, 2023.

- The CNRF is not yet operational.

4.2.2 Measures for Direct Recovery of Property (articles 53 and 56 of the UNCAC)

Under Article 219 of Law No. 1/09 of May 11, 2018 amending Burundi's Code of Criminal Procedure,⁹⁶ any party considering itself wronged, including a State Party, may bring a civil action in order to recover property or claim damages. According to available information, foreign State Parties have not yet appeared before Burundian courts to claim damages.

Article 3 of the Code of Civil Procedure stipulates that only persons with a legitimate interest may bring an action for damages. There are no legal or practical obstacles to exercising this right, such as excessive costs of legal proceedings.

Communication to inform the State Party concerned of its right to defend and prove before the courts the relevance of its request takes place through diplomatic channels between the requested and requesting States Parties. There are as of yet no cases where Burundi has shared information on specific cases of ill-gotten asset recovery with other countries proactively and/or on request.

Burundian law does not provide for the enforcement of foreign confiscation orders or for the confiscation of foreign proceeds of crime resulting from an order concerning money laundering offences or other offences established by the UNCAC. Burundi has no provisions allowing confiscation without a criminal conviction. However, the Burundian Penal Code provides for confiscation as a complementary penalty that can be imposed in addition to the principal penalty (articles 61 et seq. of the Penal Code).

It is possible to request the seizure of illegally acquired assets (article 63 of the Penal Code), but no seizures have been made to date, as there have been no requests from foreign States Parties.

Burundi has an exequatur procedure, i.e. a procedure enabling a foreign legal decision to be enforced in Burundi. Article 26 of law no^o1/08 of March 17, 2005 on the Code of Judicial Organization and Jurisdiction,⁹⁷ stipulates that the courts of first instance are empowered to recognize the enforceability of decisions handed down by foreign courts.

The preservation of property with a view to its confiscation is not explicitly provided for in Burundian domestic law. However, it would be applicable through article 33 of the LBCFT law on mutual legal assistance, which is particularly broad in scope.

Good practices

- No information is available on cases of good practice.

Deficiencies

- Anti-money laundering legislation has not yet reached a satisfactory minimum level of enforcement.

4.3 Statistics

⁹⁶ National Assembly of Burundi, Laws enacted in 2018, Item no. 9, <https://assemblee.bi>, accessed September 15, 2023.

⁹⁷ National Assembly of Burundi, Laws enacted in 2005, Item no. 8, <https://assemblee.bi>, accessed September 15, 2023.

There is a lack of official, sufficient and relevant information on the implementation of provisions on the fight against money laundering and the recovery of ill-gotten assets. Recoveries in connection with money laundering are not officially available or publicly known.

4.4 Short analysis

No information is currently available on the implementation of Law N°1/02 of February 4, 2008 on the fight against money laundering and terrorist financing (LBCFT). Work is underway within the Burundi administration to make the law operational.

4.5 Information on asset recovery cases

Statistics on ill-gotten gains recovered from 2018 to 2022

To the Public Prosecutor's Office of the Anti-Corruption Court

Year	Amounts recovered	Guaranteed amounts
2018	524,867,608 FBU and 500 US dollars	31,900,000 FBU and 1 vehicle
2019	1,219,704,079 FBU and 20 US dollars	101,530,000 FBU
2020	769,173,201 FBU and 6,873 US dollars	14,137,000 FBU and 1 vehicle
2021	205,829,967 FBU	267,011,000 FBU and 6 houses with title deeds
2022	242,788,832 FBU and 2 houses with title deeds	89,029,220 FBU

Source: Investigation report presented by OLUCOME President Gabriel RUFYIRI at the biannual CSO workshop on "Recovering misappropriated public funds" in Bujumbura, March 23, 2023.

Table comments: The table gives the amounts of recoveries of ill-gotten assets as well as the amounts of bonds voluntarily posted by persons prosecuted by the Public Prosecutor's Office at the Anti-Corruption Court for the commission of acts of corruption or related offenses during the period from 2018 to 2022.

To the Anti-Corruption Court

Year	Amounts requested	Amounts granted	Amounts recovered
2018	5,140,728,648 FBU	3,778,242,177 FBU	497 553 296 FBU
2019	2,400,662,102 FBU	2 114 016 710 FBU	305 233 078 FBU
2020	1,565,299,196 FBU	1 194 264 110 FBU	285 259 229 FBU
2021	3,008,927,244 FBU	2,088,487,187 FBU	228,973,948 FBU
2022	2 135 346 837 FBU	1 884 803 195 FBU	416 832 125 FBU

Source: Investigation report presented by OLUCOME President Gabriel RUFYIRI at the biannual CSO workshop on "Recovering misappropriated public funds" in Bujumbura, March 23, 2023.

Table comments: This table gives the amounts of ill-gotten assets claimed by the Public Prosecutor's Office at the Anti-Corruption Court from persons prosecuted for the commission of acts of corruption or related offenses, the amounts of ill-gotten assets actually awarded by the Anti-Corruption Court and the amounts of ill-gotten assets recovered annually from 2018 to 2022.

V. Recent Developments

As part of the implementation of Axis 13 of the NDP BURUNDI 2018-2027, the SNBGLC for the period 2018 to 2027 was signed on June 3, 2020 by the President of the Republic of Burundi. The signing of this new SNBGLC was preceded by the adoption by the Government of Burundi of the National Policy Letter on Good Governance and the Fight against Corruption. Nevertheless, the two documents for the operationalization of Axis 13 of the PND BURUNDI 2018-2027 have not, to date, been published, nor popularized for stakeholders interested in the promotion of good governance and the fight against corruption in Burundi. As a result, the public, particularly civil society, is unaware of the existence of these documents, the government institution responsible for their implementation, and any monitoring and evaluation reports on their implementation produced by the Government of Burundi. The advances in anti-corruption policy and practice noted in the Government of Burundi's self-assessment report and in the executive summary of Burundi's review of its implementation of Chapters II and V of the UNCAC have been undermined by the lack of publication and disclosure of these two policy documents.

This undermining of progress in good governance and the fight against corruption is exacerbated by the fact that since the second half of 2020, the Ministry in charge of Good Governance, as the public and cross-cutting institution responsible for designing the national good governance and anti-corruption policy and monitoring/evaluating its implementation, has been abolished. In addition, the delay in replacing the UNCAC Review Mechanism focal point for Burundi, who resigned in the second half of 2020, seems considerable.

Public opinion, particularly civil society, is concerned about the government's delay in adopting and implementing anti-corruption reforms. In the field of corruption prevention, national experts have pointed out that the provisions of Law n°1/12 of April 18, 2006 on measures to prevent and punish corruption and related offences are incomplete and inconsistent, even though most of these measures are currently covered by several other general or specific pieces of legislation. With regard to the established offences in this 2006 law, in comparison with the UNCAC and other current legislation in Burundi, several provisions of this law are incomplete, incoherent and poorly drafted. As for the articles of this law dealing with the organization, powers and procedures of institutions for the prevention and repression of corruption and related offences, some of them are either incomplete or poorly designed.

For these reasons and many others developed in the report of this study, the Government of the Republic of Burundi should implement the following recommendations to promote good governance, including the prevention, prosecution and punishment of corruption and related offences, as well as the recovery of ill-gotten assets.

VI. Recommendations

1. Implement the key actions identified in the executive summary of the review of Burundi's implementation of UNCAC Chapters II and V on the prevention of corruption and asset recovery, especially since these actions have been accepted by the Government of Burundi without reservation;
2. Popularize the National Policy Letter on Good Governance and the Fight against Corruption for the period 2018 to 2027 as well as the SNBGLC which was signed on June 3, 2020 by the President of the Republic;
3. Recreate a ministerial institution responsible for coordinating the design of the National Policy on Good Governance and the Fight against Corruption, and for monitoring/evaluating actions to implement this policy, following the example of the former Ministry at the Presidency responsible for Good Governance, which was abolished in 2020;
4. Enforce the constitutional provisions enshrining the independence of Burundi's judiciary, including the Public Prosecutor's Office;
5. Legislate on public access to information;
6. Make the CNRF operational, as this action is currently considerably behind schedule;
7. Improve the partnership between the Government of Burundi and CSOs for effective synergy in the prevention of corruption and the recovery of ill-gotten gains;
8. Modernize the legal and institutional framework of institutions for the prevention of corruption and the recovery of ill-gotten gains to ensure better reorganization and more efficient operation of these institutions;
9. Negotiate technical and financial assistance from Burundi's partners to train the staff of public institutions in data collection and processing, and the production and publication of statistics;
10. Train the key personnel of the institutions for the prevention of corruption and the recovery of ill-gotten gains and provide them with the material and logistical resources appropriate to their missions;
11. Develop strategies for civil society organizations to pursue advocacy focused on restoring the rule of law and strengthening the fight against acts of corruption and related offenses;
12. Adapt the legal framework for non-profit organizations to make it less restrictive;
13. Value the work of civil society organizations, which are genuine partners of public authorities in promoting good governance and the well-being of the population.

VII. Annex

7.1 Summary of consultation contributions

Names of people consulted	Overview of contributions
Mrs BARIMWABO Mathias and BATUNGWANAYO Balthazar	<ul style="list-style-type: none"> - Confirmation of the content of the summary of the official review report of Burundi already published in 2019 by the UNODC on the provisions of Chapter II of the UNCAC relating to employment in the public sector and codes of conduct for public officials; - Affirmation of the ongoing systematization of general inspections in all ministries as a new reform to prevent corruption within the public administration; - Confirmation of the need for technical and financial assistance to strengthen human, material and logistical capacities to effectively prevent corruption within the public administration; - Recognition of the public administration's need for technical and financial assistance in the production and publication of statistics to enhance the transparency of government action.
Mr Oswald NZOKURAKUMANA	<ul style="list-style-type: none"> - Confirmation of the content of the summary of the official review report of Burundi already published in 2019 by the UNODC on the provisions of Chapter II of the UNCAC relating to public financial management; - Affirmation of results-based budgeting as a new reform in public finance management since the promulgation of Law N°1/20 of June 20, 2022 revising Law N°1/35 of December 4, 2008 on public finance;⁹⁸ - Confirmation of the need for technical and financial assistance in capacity building of human, material and logistical resources to facilitate the implementation of the recent legislation on public finance management, operationalize electronic archiving, and produce and publish statistics on public finance management.
Mr NDIKUMANA Roger	<ul style="list-style-type: none"> - Confirmation of the contents of the summary of the official review report on Burundi already published in 2019 by the UNODC on the implementation of the provisions of Chapter II of the UNCAC relating to the prevention of corruption; - Recognition of the need for technical and financial assistance in the reform of the legal framework for the prevention, prosecution and punishment of corruption and related offences to strengthen the fight against corruption and related offences in Burundi; - Recognition of the need for technical and financial assistance to strengthen human, material and logistical capacities to prevent, prosecute and punish corruption and related offences.
Dr BANO Innocent and Mrs KWIZERA Sylvie	<ul style="list-style-type: none"> - Acknowledgement of the contents of the summary of the official review report of Burundi already published in 2019 by the UNODC on the implementation of Articles 14 and 58 of Chapters II and V of the UNCAC relating to the prevention of money laundering and the CNRF; - Affirmation of the firm political will of the Government of the

⁹⁸ National Assembly of Burundi, Laws enacted in 2022, Item no. 19, <https://assemblee.bi>, accessed September 15, 2023.

	<p>Republic of Burundi to make the CNRF operational, materialized by the signing of new texts⁹⁹ including Decree N°100/044 of March 16, 2020 on the creation, missions, organization and operation of the CNRF in Burundi and OMN°540/3200/2022 of 16/08/2022 appointing the Permanent Secretary of the CNRF, the work in progress to draw up the plan for the effective establishment of the CNRF and the draft application for Burundi's membership of GABAOA;</p> <ul style="list-style-type: none"> - Recognition of the need for technical and financial assistance in reforming the legal framework for combating money laundering and recovering ill-gotten assets; - Affirmation of the need for technical and financial assistance to strengthen the human, material and logistical capacities of all public and private institutions involved in financial intelligence, such as the CNRF, the police, the public prosecutor's office, the central bank, commercial banks, exchange and money transfer offices, etc.
<p>Mr BARANKITSE Pacifique</p>	<ul style="list-style-type: none"> - Confirmation of the content of the summary of the official review report of Burundi already published in 2019 by the UNODC on the implementation of the provisions of Chapters II and V of the UNCAC relating to the prevention of corruption and the asset recovery; - Acknowledgement of the absence of a specialized and operational body for the recovery of ill-gotten assets and of national legislation on the recovery of assets without prior criminal conviction; - Desire for technical and financial assistance in reforming the legal framework for preventing, prosecuting and punishing corruption and related offences, and in strengthening the human, material and logistical capacities of the judiciary.
<p>Master Jean de Dieu MUHUZENGE</p>	<ul style="list-style-type: none"> - Affirmation of the existence of the provisions of the Constitution of June 7, 2018¹⁰⁰ guaranteeing the independence of the judiciary, namely Articles 210 and 214;¹⁰¹ - Confirmation of the existence of other provisions in legal texts¹⁰² of lower rank than the constitution which are used, in practice, as legal pretexts to call into question the independence of the judiciary; - Acknowledgement of the violation of the independence of the judiciary by the abuse of certain administrative, judicial, political and military authorities who give secret instructions to judges to decide cases in the way they wish, or take positions in the media on certain cases under investigation or trial in order to indirectly influence the personal convictions of judges and officers of the public prosecutor's office;¹⁰³

⁹⁹ The two new texts have not yet been published.

¹⁰⁰ <https://presidence.gov.bi/2018/07/>, accessed September 15, 2023.

¹⁰¹ The official review of Burundi's implementation of article 11 of the UNCAC was carried out under the Burundi Constitution of 2005. Article 210 of Burundi's June 7, 2018 Constitution corresponds to Article 205 of the 2005 Constitution, while Article 214 of the June 7, 2018 Constitution corresponds to Article 209 of the 2005 Constitution.

¹⁰² The provisions of these legal texts are analyzed in detail when we examine article 11 of the UNCAC.

¹⁰³ The views of the President of the Bar Association at the Court of Appeal at the Bujumbura City Hall were given at a meeting held in his chambers on 14/11/2022.

	<ul style="list-style-type: none"> - Confirmation of the existence of disciplinary sanctions for breaches of the rules governing the integrity of magistrates, up to and including dismissal;¹⁰⁴ - Recognition of the benefits of the former Belgian Technical Cooperation project, which provided technical and financial support to the Magistrates' Professional Training Centre, particularly in terms of transparency in the recruitment of new magistrates and improving the quality of new magistrates; - Regret at the suspension of the above-mentioned Belgian Technical Cooperation project, with the negative consequences of the opacity of recruitment procedures for new magistrates and the decline in the quality of new magistrates; - Request for technical and financial assistance to strengthen the human, material and logistical capacities of the judiciary.
<p>Mr BASIGIVYABO Boniface, Mr Eric NKURUNZIZA and Ms NDUWAYEZU Béatrice</p>	<ul style="list-style-type: none"> - Recognition of the current legal impossibility of taking into account the content of the summary of the report of the official review of Burundi already published in 2019 by the UNODC on the provisions of Chapter II of the UNCAC relating to public procurement, because, this review report had been produced on the basis of the assessment of the provisions of the former CMP of 2008 already amended by the new CMP of 2018;¹⁰⁵ - Confirmation of two innovations introduced by the new CMP, namely (i) the reduction and adjustment of deadlines for publication of tender notices and receipt of bids compared with the old CMP for the sake of realism and to take into account the wishes of economic operators, and (ii) the decentralization of public procurement procedures for communes; - Acknowledgement of the challenges essentially linked to the difficulties of applying several provisions of this new legislation, to unstable and non-specialized personnel in the field of public procurement and to the lack of preliminary IT tools likely to make electronic public procurement possible;¹⁰⁶ - Confirmation of the need for technical and financial assistance to modernize and enforce current legislation on public procurement, train technical staff and equip public procurement departments with appropriate IT tools.
<p>Mrs RUFYIRI Gabriel, NDUWAYO Pierre, NDIKUMANA Faustin and Maître Godefroid MANIRAMBONA</p>	<ul style="list-style-type: none"> - Affirmation of the lack of firm and publicly known political will on the part of the Government of the Republic of Burundi to effectively prevent and combat corruption and recover ill-gotten gains, as evidenced in particular by: (i) the absence of a National Strategy for Good Governance and the Fight against Corruption (SNBGLC) to operationalize the first axis of Burundi's National Development Plan (PND) for the period 2018 to 2027;¹⁰⁷

¹⁰⁴ The cases of magistrates sanctioned are given during the detailed examination of Burundi's implementation of article 11 of the UNCAC.

¹⁰⁵ National Assembly of Burundi, Laws enacted in 2018, Item No. 4, <https://assemblee.bi>, accessed September 15, 2023.

¹⁰⁶ This point is explained in detail when examining Burundi's implementation of article 9 paragraph 1 of the UNCAC.

¹⁰⁷ This statement needs to be qualified. Indeed, the National Strategy for Good Governance and the Fight against Corruption (SNBGLC) for the period 2018 to 2027 does exist. It was signed on June 3, 2020 by the then President of the Republic of Burundi, the late Pierre NKURUNZIZA. The signing of this strategy was preceded by the Government's adoption of the National Policy Letter on Good

	<p>(ii) the abolition of the Ministry in the Presidency in charge of Good Governance, which was responsible for designing the national policy on good governance and the fight against corruption, and for monitoring and evaluating the implementation of this policy through the production of periodic monitoring and evaluation reports;¹⁰⁸</p> <p>(iii) the attempt to reassign the powers of the BSAC, the Anti-Corruption Court and its General Prosecutor's Office to ordinary police and judicial institutions, had it not been for the Constitutional Court's ruling on the constitutionality of laws, which declared the relevant bill unconstitutional;¹⁰⁹</p> <p>(iv) the legal framework for preventing, prosecuting and punishing corruption and related offences is inadequate, particularly in regards to the declaration of assets by public officials (no sanctions against those who have not declared their assets, those who have filed false declarations of assets, those who have filed declarations of assets late, those who have filed incomplete declarations, etc.) and the recovery of ill-gotten gains;¹¹⁰</p> <p>(v) the slow progress in setting up the High Court of Justice, which is the only judicial body competent to judge the country's highest authorities under criminal law, particularly in cases of corruption;</p> <ul style="list-style-type: none"> - Collaboration and synergy between all the players involved in preventing, prosecuting and punishing corruption and related offenses have become problematic with the abolition, in 2020, of the Ministry in the Presidency in charge of Good Governance, which served as the national coordinator of initiatives from public and private players, civil society organizations, non-governmental organizations, etc. in preventing corruption and related offenses; - Affirmation of the need for donors to provide technical, financial and logistical support to public institutions for the prevention, prosecution and punishment of corruption and related offences, in order to carry out the necessary reforms and train the staff of
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Governance and the Fight against Corruption. However, neither document has been published or publicized. Nor are there any monitoring and evaluation reports on the implementation of these two documents. However, monitoring and evaluation reports on the National Strategy for Good Governance and the Fight against Corruption for the period 2011-2015 were produced by the former Ministry of the Presidency in charge of Good Governance and communicated to the public, including Burundi's technical and financial partners.

¹⁰⁸ The Ministry at the Presidency in charge of Good Governance has played a key role in promoting good governance and preventing corruption and related offenses. Both strategies, one from 2011 to 2015 and the other from 2018 to 2027, were drawn up by this Ministry. In addition, reviews of Burundi's implementation of the UNCAC during the first and second review cycles were led by the focal point of the UNCAC Review Mechanism, which reported to the Ministry in the Presidency in charge of Good Governance. The abolition of this Ministry has therefore created a remarkable institutional vacuum, particularly in terms of monitoring, evaluation and communication on actions to promote good governance and combat corruption in Burundi.

¹⁰⁹ RCCB 403 of June 14, 2021 unpublished.

¹¹⁰ Yet, since 2015, the Presidency of the Republic has had a policy and technical guidance document for the reform of the legal framework for the prevention, prosecution and punishment of corruption and related offences, which was drawn up by the former Ministry at the Presidency in charge of Good Governance.

	<p>these institutions;</p> <ul style="list-style-type: none"> - Recognition of the need for technical and financial support for civil society organizations (ASGs) and the bar¹¹¹ by donors to advocate the prevention, prosecution and punishment of corruption and related offences. - Clarification of certain cases of application of provisions relating to measures to prevent corruption and recover ill-gotten gains.
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7.2 Table on Freedom of Information Requests¹¹²

N°	Institution	Information requested	Information provided
1.	Office of the Minister of Labor and Civil Service	New developments in relation to Burundi's latest official review report and any information deemed useful such as statistics, etc. in the civil service sector.	Confirmation of the content of the report on Burundi's last official review of the civil service sector, generalization of the creation of general inspectorates in the ministries as a new civil service reform, request for support in strengthening the human, material and logistical capacities of civil service management and control services.
2.	Permanent Secretariat of the Ministry of Labor and Civil Service	Idem.	Idem.
3.	Ministry of Finance, Budget and Economic Planning	New developments in relation to the last report on Burundi's official review and all information deemed useful, such as statistics on public finance management and control.	Confirmation of the content of the report on Burundi's latest official review of public finance management, affirmation of results-based budgeting as the new public finance management reform, and request for assistance in building human, material and logistical capacities for public finance management and control departments.
4.	General Commissariat of the Special Anti-Corruption Brigade (BSAC)	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on the prevention of corruption and money laundering and related police investigations.	Confirmation of the content of Burundi's latest official review report concerning the sector, subject of the request, for assistance in modernizing the legal framework for preventing, prosecuting and punishing corruption and related offences, and in building human, material and logistical capacity.
5.	National Financial Intelligence Unit (CNRF)	New developments in relation to the last report on the official review of Burundi and any information deemed useful, such as statistics on the CNRF.	With the Permanent Secretariat of the CNRF being new, the head of the said department took note of the executive summary of Burundi's last official review. He went on to state that Burundi is firmly committed to establishing a functional CNRF and to cooperating with countries in the sub-region and worldwide in the fight against money laundering.

¹¹¹ The bar is particularly interested in the prevention of corruption within the public administration and legal and judicial services.

¹¹² Burundi does not yet have any legislation on access to information, although requests for official information should normally refer to such legislation. The information in this table was obtained formally and informally, according to the requirements and level of understanding of the objectives and purpose of this study by each person consulted.

6.	Executive Secretariat for Public Procurement	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on the management, control and regulation of public procurement, etc.	He stated that the management, control and regulation of public contracts are currently governed by a new CMP which presents inconsistencies and gaps that need to be corrected and filled to ensure its proper applicability. He called for technical assistance to modernize the CMP and strengthen the human, material and logistical capacities of public procurement management, control and regulation departments.
7	Standing Committee on Public Procurement	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on the management, control and regulation of public procurement, etc.	Idem.
8.	Parole pour l'Action et le Réveil pour le Changement des Mentalités (PARCEM) (Word for Action and Awakening to Change Mindsets)	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on civil society action to prevent corruption and related offences, as well as economic and financial malpractice.	The questions and answers were, by and large, the same for all representatives of civil society organizations. The following is a summary of the answers given: - A lack of firm commitment on the part of the Government of Burundi to effectively prevent and combat corruption and related offences, as well as economic and financial malfeasance; - The need for technical assistance for public services to modernize the legal framework for preventing and punishing corruption and related offences, and to strengthen their human, material and logistical capacities, as well as technical and financial assistance for CSOs to advocate for the fight against corruption and economic and financial malfeasance, and to promote synergy between the actions of all stakeholders.
9.	Observatory of Government Action (OAG)	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on civil society action to prevent corruption and related offences, as well as economic and financial malpractice.	Idem.
10.	Public Prosecutor's Office at the Anti-Corruption Court	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on the prevention of corruption and money laundering in the judicial sector, related prosecutions and judgments, the recovery of ill-gotten gains, etc.	Confirmation of the content of the summary of Burundi's last official review, recognition of the absence of a specialized body for the recovery of ill-gotten gains and of national legislation on the recovery of assets not based on prior criminal conviction, the desire for technical and financial assistance in reforming the legal framework for the prevention, prosecution and punishment of corruption and related offences, and

			in strengthening the human, material and logistical capacities of the judiciary.
11.	Bar at the Court of Appeal in Bujumbura Town Hall	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics, cases concerning the independence and integrity of judges and prosecution services, etc.	The independence of the judiciary is enshrined in constitutional provisions. In practice, however, it is violated by the provisions of recent legislation ranking below the Constitution, and by unwritten instructions issued by hierarchical judicial, administrative and military authorities.
12.	OLUCOME	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on civil society action to prevent corruption and related offences, as well as economic and financial malpractice.	In addition to the contributions made by other civil society representatives, the President of OLUCOME gave examples of mismanagement of public finances, the recovery of ill-gotten gains and public procurement contracts that illegally evade competition.
13.	Association Burundaise des Consommateurs /Transparency International	Idem.	Idem.
14.	General Directorate of the Public Procurement Regulatory Agency	New developments in relation to Burundi's last official review report and any information deemed useful, such as statistics on the public procurement sector.	In addition to confirming the information given by the Executive Secretariat for Public Procurement and the representative of the Standing Committee on Public Procurement, he pointed out that the https://www.armp.bi/ website contains a great deal of interesting information on the awarding and execution of public contracts, such as the relevant legislation, dispute resolution, annual activity reports, and so on.

7.3. Bibliography

All the documents and legislative and regulatory texts cited in this report exist and have been consulted by the consultant. However, they have not been systematically published online, as electronic archiving is still a concern for many public services in Burundi.

7.3.1. Recent policy documents and monitoring/evaluation reports:

- Public Procurement Regulatory Agency, The 2018-2019, 2019-2020 and 2020-2021 annual activity reports of the public procurement departments, www.armp.bi/;
- Burundi Vision 2025, https://www.undp.org/sites/g/files/zskgke326/files/migration/bi/UNDP-bi-vision-burundi-2025_complete_EN.pdf;
- The National Development Plan of Burundi, abbreviated "PND BURUNDI 2018-2027" signed in June 2018 99 (the document can be found on a link that no longer works);
- The executive summary of the review of Burundi on the implementation of chapters II and V of the United Nations Convention against Corruption, CAC/COSP/IRG/2019/CRP.17, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group, Second part

of the resumed tenth session held in Abu Dhabi, December 17 and 18, 2019, Executive summary: Burundi, December 5, 2019;

- The United Nations Basic Principles on Judicial Integrity, 2019, https://www.unodc.org/documents/ji/training/19-03890_F_ebook.pdf ;
- MASABO (M), Impact de la fermeture de l'espace civique sur le travail des militants anticorruption du Burundi et d'autres acteurs des droits de l'homme travaillant sur les questions de gouvernance, study carried out for OLUCOME in May 2023

7.3.2. Main laws and regulations

- The Constitution of the Republic of Burundi of June 7, 2018, <http://www.presidence.gov.bi/wp-content/uploads/2018/07/constitution-promulguee-le-7-juin-2018.pdf>;
- The laws available on the website of the National Assembly of Burundi, accessible from the following link: <https://assemblee.bi/spip.php?rubrique36>:
 - Law No. 1/03 of February 8, 2023 amending Law No. 1/28 of August 23, 2006 on the General Statute for Civil Servants, Laws promulgated in 2023, Point No. 3;
 - Law N°1/20 of June 20, 2022 revising Law N°1/35 of December 4, 2008 on public finance, Laws promulgated in 2022, Point n°19;
 - Organic Law N°1/02 of January 23, 2021 amending Law N°1/13 of June 12, 2019 on the organization and functioning of the Superior Council of the Magistracy, Laws promulgated in 2021, Point n°2;
 - Organic Law N°1/21 of 3 August 2019 amending Law N°1/ 07 of 25 February 2005 of the Supreme Court, Laws enacted in 2019, Point n°15;
 - Law N°1/09 of 11 May 2018 amending the Burundi Code of Criminal Procedure, Laws enacted in 2019, Point n°9;
 - Law No°1/11 of May 20, 2019, amending Law No°1/20 of June 3, 2014, on the Electoral Code, Laws Promulgated in 2019, Item No. 16;
 - The 2018 Public Procurement Code, Laws enacted in 2018, Item No. 4;
 - Law No°1/27 of December 20, 2017 revising the Penal Code, Laws enacted in 2017, Item No. 23;
 - Law No°1/18 of September 6, 2013 on tax procedures, Laws enacted in 2013, Item No. 17;
 - Law N°1/16 of September 10, 2011 revising Law N°1/006 of June 6, 2003 on the Organization and Functioning of Political Parties, Laws promulgated in 2011, Point n°13;
 - Law n°1/09 of May 30, 2011 on the Code of Private and Publicly Owned Companies, Laws promulgated in 2011, Point n°8;
 - Law n°1/02 of February 04, 2008 on the fight against money laundering and terrorist financing, Laws promulgated in 2008, Point n°2;
 - Law n°1/28 of August 23, 2006 on the General Statute for Civil Servants, Laws promulgated in 2006, Point n°24;
 - Law n°1/36 of December 13, 2006 creating the Anti-Corruption Court, Laws promulgated in 2006, Point n°32;
 - Law n°1/37 of December 28, 2006 on the Creation, Organization and Functioning of the Special Anti-Corruption Brigade, Laws promulgated in 2006, Point n°33;
 - Law n°1/12 of April 18, 2006 on Measures to Prevent and Punish Corruption and Related Offences, Laws promulgated in 2006, Point n°10;
 - Law n°1/08 of March 17, 2005 on the Code of Judicial Organization and Jurisdiction, Laws promulgated in 2005, Point n°5;
 - Law n°1/017 of May 12, 2005 on the Statute of the Magistrates of the Court of Auditors, Laws promulgated in 2005, Point n°16;

- Law n°1/002 of March 31, 2004 on the creation, organization and functioning of the Court of Auditors, Laws promulgated in 2004, Point n°32;
- Law n°1/001 of February 29, 2000 reforming the Statute of Magistrates (not available online);
- Legislative decree n°1/03 of 31 January 1989 fixing the system of incompatibilities attached to the functions of public agents or representatives and the procedures for verifying the lawful origin of their assets (not available online);
- Decree N°100/044 March 2020 on the creation, missions, organization and operation of the CNRF in Burundi (not available online);
- Decree N°100/114 of 30 April 2013 on the Guide of Ethics for Magistrates (not available online);
- Bank of the Republic of Burundi foreign exchange regulations of June 09, 2010 (not available online);
- Decree N°100/09 of 15 January 2010 Concerning the Reorganization of the General State Inspectorate (not available online);
- Decree N°100/078/89 of 12 April 1989 on measures to implement the Decree-Law n°1/03 of 31 January 1989 fixing the system of incompatibilities attached to the functions of public agents or representatives and the procedures for verifying the lawful origin of their assets (not available online);
- L'OM N°540/3200/2022 of 16/08/2022 appointing the Permanent Secretary of the CNRF (not available online);
- L'OM n° 540/1791 of 7 November 2012 revising the National Chart of Accounts (not available online);
- Ministerial Order N°540/791 of May 25, 2010 creating the National Financial Intelligence Unit (not available online).