

Organic Law

N° 28/2006 of 27/06/2006

Organic Law modifying and complementing Organic Law n° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca Courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994.....

Annex.....

ORGANIC LAW N° 28/2006 OF 27/06/2006 MODIFYING AND COMPLEMENTING ORGANIC LAW N° 16/2004 OF 19/06/2004 ESTABLISHING THE ORGANISATION, COMPETENCE AND FUNCTIONING OF GACACA COURTS CHARGED WITH PROSECUTING AND TRYING THE PERPETRATORS OF THE CRIME OF GENOCIDE AND OTHER CRIMES AGAINST HUMANITY, COMMITTED BETWEEN OCTOBER 1, 1990 AND DECEMBER 31, 1994

We, KAGAME Paul,
President of the Republic;

THE PARLIAMENT HAS ADOPTED, AND WE SANCTION, PROMULGATE THE FOLLOWING ORGANIC LAW AND ORDER IT TO BE PUBLISHED IN THE OFFICIAL GAZETTE OF THE REPUBLIC OF RWANDA.

THE PARLIAMENT:

The Chamber of Deputies, in its session of May 24, 2006;

The Senate, in its session of May 25, 2006;

Given the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in its Articles 62, 67, 88, 90, 92, 93, 94, 108, 118, 121, 151 and 201;

Given the Organic Law n° 29/2005 of 31/12/2005 determining the Administrative entities of the Republic of Rwanda;

Having reviewed the Organic Law n° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca Courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994, especially in its articles, 3, 4, 6, 15, 99 and 103;

ADOPTS:

Article one:

Article 3 of the Organic Law N° 16/2004 of 19/06/2004 establishing the organisation, competence and function of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994 is modified and complemented as follows:

“It is hereby set up the Gacaca Court of the Cell, the Gacaca Court of the Sector and the Gacaca Court of Appeal.

These Courts are in charged of hearing cases of crimes of Genocide and other crimes against humanity committed between October 1, 1990 and December 31, 1994 within the limits provided by this Organic Law and the Organic law n° 16/2004 of 19/06/2004 establishing the organisation, competence and function of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994.”

Article 2:

Article 4 of the Organic Law N° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca Courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994 is modified and complemented as follows:

“The jurisdiction of Gacaca Court of the Cell and that of the Sector are the former Cell and the former Sector respectively while that of Appeal is the former Sector as such structures were provided for by the law before the Organic law N° 29/2005 of 31/12/2005 determining administrative entities of the Republic of Rwanda was published in the Official Gazette.

The list of Gacaca Courts is indicated on appendix of this Organic Law.”

Article 3:

Article 6 of the Organic Law N° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994 is modified and complemented as follows:

“The General Assembly of a Gacaca court of the Cell is composed of all the Cell’s residents in the jurisdiction of that Court, aged 18 years at least.

When it appears that within a given jurisdiction, the number of inhabitants aged 18 years or older is less than two hundred (200), that jurisdiction must be merged with another jurisdiction of the Cell within the same jurisdiction of the Gacaca Court of the Sector, to make one Gacaca Court of the Cell. The same applies when it appears that the number of upright persons defined in article 8 of the Organic law N° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994, is not reached. The merged Gacaca Courts of the Cell proceed to new elections for appointing persons of integrity.

In case the merged Gacaca Courts of the Cell fail to meet the required number of persons of integrity, and there is no any other Gacaca Court of the Cell in the same jurisdiction of the Gacaca Court of the Sector, these Gacaca Courts of the Cell are merged with another Gacaca Court of the Cell in a neighbouring jurisdiction of the Gacaca Court of the Sector. The Gacaca Court of the Sector the merged Cells formerly belonged to is in turn merged with Gacaca Court of the Sector for the Cell with which those Gacaca Courts of the Cell were merged.

The decision of putting the Gacaca Court of Cell in the jurisdiction of another Gacaca Court of the Cell is taken by the National Service in charge of the follow up, supervision and coordination of the activities of Gacaca Courts, on its own initiative or upon request of the Mayor of the District, with a copy to the Governor of the Province or the Mayor of the City of Kigali.”

Article 4:

Article 15 of the Organic Law N° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994, is modified and complemented as follows :

“Can not be elected member of the seat for a Gacaca Court:

- 1° the person exercising a political activity;
- 2° a Government official;
- 3° the soldier or the policeman who is still in active service;
- 4° the career magistrate;
- 5° the member of the leadership of a political organization

This ineligibility, however, is waived when the person’s resignation from his or her position is accepted.

Leaders referred to in the second point, first paragraph of this article, are the Governor of the Province, Members of the Executive Committee of the City of Kigali, that of the District and those members of the political and administrative committee at the Cell level.

Cannot elect or be elected as a person of integrity, anybody who appears on the list of genocide suspects. However, those who committed offences against property only can elect.”

Article 5:

Article 99 of the Organic law n° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994, is amended and complemented as follows :

“If the defendant has neither known address nor residence in Rwanda, the summons’ period is one month. The Secretary of the Gacaca Court or the Court Registrar in person or with assistance

from other organs displays a copy of the summons on the premises of the court which must try the case and on the offices of Districts, Provinces and of the City of Kigali.

The copy of the summons can only be displayed in public places intended for that purpose.

Trials for the persons so summoned, are brought before Gacaca Courts, in accordance with article 66 of the Organic Law n° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994, whereas before the Ordinary Courts, they follow the procedure provided for cases of defendants put to trial by default.”

Article 6:

Article 103 of the Organic Law N° 16/2004 of 19/06/2004 establishing the organisation, competence and functioning of Gacaca courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1990 and December 31, 1994 is modified as follows:

“Persons of integrity elected before the publication of this organic law continue their activities in Gacaca Courts as they appear on the appendix of this Organic Law.”

Article 7:

All previous legal provisions contrary to this Organic Law are hereby abrogated.

Article 8:

This Organic Law comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda. It becomes effective as of 31/12/2005.

Kigali, on 27/06/2006

The President of the Republic
KAGAME Paul
(sé)

The Prime Minister
MAKUZA Bernard
(sé)

The Minister of Local Government, Good Governance,
Community Development and Social Affairs
MUSONI Protais
(sé)

The Minister of Justice
MUKABAGWIZA Edda
(sé)

Seen and sealed with the Seal of the Republic:

The Minister of Justice
MUKABAGWIZA Edda
(sé)