

# **BURUNDI: A DEEPENING CORRUPTION CRISIS**

Africa Report N°185 – 21 March 2012

*Translation from French*

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## BURUNDI: A DEEPENING CORRUPTION CRISIS

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Despite the establishment of anti-corruption agencies, Burundi is facing a deepening corruption crisis that threatens to jeopardise a peace that is based on development and economic growth bolstered by the state and driven by foreign investment. The “neopatrimonialist” practices of the party in office since 2005 has relegated Burundi to the lowest governance rankings, reduced its appeal to foreign investors, damaged relations with donors; and contributed to social discontent. More worrying still, neopatrimonialism is undermining the credibility of post-conflict institutions, relations between former Tutsi and new Hutu elites and cohesion within the ruling party, whose leaders are regularly involved in corruption scandals. In order to improve public governance, the Burundian authorities should “walk the talk” and take bold steps to curtail corruption. Civil society should actively pursue its watchdog role and organise mass mobilisation against corruption and donors should prioritise good governance.

Since Burundi became a republic in 1966, state capture, mostly by the Tutsi elite, was at the centre of politics, and the unfair wealth distribution fuelled conflict. While the 1993-2003 civil war has not threatened the Tutsi political and economic domination, it has increased corruption and favoured the rise of an ethnically diverse oligarchy.

When the CNDD-FDD (Conseil national pour la défense de la démocratie-Forces de défense de la démocratie) rebellion came to power in 2005, it intended not only to transfer political power from the Tutsi to the Hutu but also to improve governance. The new authorities pledged to fight corruption and created state structures to this effect. However, the first corruption scandals involving the CNDD-FDD dignitaries and state officials watered down the hope of a more equitable wealth distribution.

In addition to the politicisation of the civil service, the ruling party captured the public sector and its resources. It is coveting the private sector by trying to extend its control over the banking sector. It is also interfering in privatisation processes, thwarting efforts to improve the business climate. In such a small economy, where the state maintains a prominent role, the monopolisation of public and private resources risks derailing the peacebuilding process.

The president took the lead in the fight against corruption to improve Burundi’s declining image and address the impact of this pervasive corruption on foreign aid – which amounts to half of the state budget. He launched a “zero tolerance” campaign and designed a national strategy for good governance. However, as the core problem has not been correctly identified, this approach is doomed to fail. The solution is not to “get the talk right”, to “get the institutions right” and to “get the legal framework right”; it is to change the power relations that undermine good governance.

The national strategy for good governance includes all the necessary technical ingredients to fight corruption: improved legal framework, citizens’ access to information, independent monitoring and regulatory organisations, depoliticised civil service managers, transparent tendering processes and public servants recruitments, and reform of the natural resources sector.

What is missing is a clear political agenda. Civil society organisations should create a mass movement against corruption through the establishment of an anti-corruption forum gathering the private sector, rural organisations and universities. They should also conduct independent citizens’ surveys and assessments and scrutinise the government’s anti-corruption performance. Donors should prioritise the fight against corruption and reconsider their engagement if governance does not improve. Now that the anti-corruption agenda has become a public policy through the national strategy for good governance, it is up to civil society and donors to create the conditions for its implementation.

### RECOMMENDATIONS

*To create independent institutional checks and balances*

#### **To the Government and the Parliament:**

1. Establish the High Court of Justice as required by articles 233, 234, 235 and 236 of the constitution and strengthen the statutory safeguards for the independence of the judiciary, such as the revision of the

composition and powers of the Superior Council of the Judiciary and the principle of tenure of judges.

2. Review the anti-corruption law to extend the powers of the anti-corruption agencies, strengthen the control of illicit enrichment and protect informants.

#### **To the Government:**

3. Remove the supervision authority of the executive branch over the General State Inspectorate and the regulatory agencies so that they become independent administrative authorities.

*To improve governance and transparency in the public sector*

#### **To the Government:**

4. Activate the recruitment committee of the civil service ministry, integrate civil society in its composition and publicise widely the recruitment and appeal procedures.
5. Ensure the declarations of assets and conflicts of interest are mandatory and public for all politicians and senior members of the Burundi Revenue Agency, procurement units, and privatisation and anti-corruption institutions.
6. Include civil society representatives in the procurement units within the ministries; limit by decree the categories of public contracts with a secret nature incompatible with any publicity or competition; and change the composition of the committee in charge of the qualification of these contracts by entrusting the chairmanship to a senior judge.
7. Pass a law on access to administrative documents and publish on the Internet financial details of the state and public companies, such as the budget adopted and implemented by ministries and agencies, budget amendments, other public accounts, procurement contracts, etc.
8. Reform the legal and institutional framework of the oil and mining sector, drawing on international good practice and civil society involvement, and join the Extractive Industries Transparency Initiative (EITI).

*To create the conditions for the implementation of reforms*

#### **To Civil Society:**

9. Establish the anti-corruption forum set out in the national strategy for good governance involving companies, universities and rural and urban associations, and establish a citizen's oversight commission to monitor public procurement practices, influence peddling,

corruption in the land administration and illicit enrichment of public servants and politicians.

10. Conduct social audits and an assessment of the "national integrity system", the government's anti-corruption performance, the business climate and privatisation processes.

#### **To the European Union:**

11. Ensure the fight against corruption features prominently in the dialogue with Burundi, prioritise governance in the eleventh European Development Fund and conduct an assessment of the aid by the European Court of Auditors.

#### **To the other donors (African Development Bank, World Bank, Belgium, the Netherlands, Norway, Germany, France, the U.S., Japan, etc.):**

12. Support civil society efforts against corruption, including training to improve knowledge of public finance, procurement and legal control.
13. Include social audits in development projects and suspend projects where corruption has been proved.
14. Link budget support to the implementation of independent institutional checks and balances and to progress in terms of governance and transparency of the administration.
15. Conduct a performance audit on donor-backed institutional checks and balances and support them only after securing guarantees of their independence and conducting a performance audit.
16. Ask the United Nations Office on Drugs and Crime (UNODC) to publicly release its assessment of the implementation of the UN Convention against Corruption.

**Bujumbura/Nairobi/Brussels, 21 March 2012**

## BURUNDI: A DEEPENING CORRUPTION CRISIS

### I. INTRODUCTION

The political-ethnic conflict that tore apart Burundi was a struggle for power and control of the state apparatus and its sinecures,<sup>1</sup> which Burundians call “Reta”.<sup>2</sup> Within a nascent private sector, access to senior government administrative positions and their benefits as well as control of public procurement and financial administration were seen as the best way to get rich. Political, administrative and economic elites have for a long time been so closely intertwined that it has sometimes been difficult to tell the difference between them.

The gradual monopolisation of the government and security apparatus by the Tutsi led to the emergence of a wealthy bourgeoisie from this minority. Mainly composed of former senior civil servants, now involved in trade and business, it prospered thanks to investments in property and the creation of the first private Burundian companies. This “neopatrimonial policy”, shared with many African countries,<sup>3</sup> gave birth to a business bourgeoisie that diversified its activities in the war economy. Businessmen less

connected to government circles emerged during the civil war (1993-2003) but they still had to maintain relations with the political-administrative elite.

Therefore, when the CNDD-FDD<sup>4</sup> came to power in 2005, it represented both continuity – with its strategy of gaining control over state resources – and change – with a more balanced administrative and economic power sharing in favour of the Hutu. Not only is President Pierre Nkurunziza’s party controlling all the levers of political power and the security apparatus, it has also tried, not without problems, to shape the economic life to its advantage. However, this policy did not aim to redistribute wealth and has so far only benefited a limited and select circle of leaders of the executive and the governing party, which causes tensions not only between the new government and the old elites but also within the CNDD-FDD itself.

In the context of political impasse and struggle between an armed opposition and the security forces, the partisan monopolisation of the country’s scarce resources provides an additional argument to critics of the regime. This has stoked political tensions and aggravated the security situation since the boycott of the 2010 elections.<sup>5</sup>

After analysing the rule of law in Burundi and making the still valid recommendations set out in previous Crisis Group reports,<sup>6</sup> this report examines precisely the current government’s strategies to control the public and private sectors, their impact on institutional change, the effectiveness of foreign aid, the pact between the elites and the problems and tensions that flow from it. It highlights the threat that this crisis of corruption poses to the consolidation of peace in Burundi and makes recommendations to create the conditions for an effective fight against corruption.

<sup>1</sup> On the resolution of the Burundian conflict and post-conflict tensions, see Crisis Group Africa Reports N°169, *Burundi: From Electoral Boycott to Political Impasse*, 7 February 2011; N°155, *Burundi: Ensuring Credible Elections*, 17 February 2010; N°131, *Burundi: Finalising Peace with the FNL*, 28 August 2007; N°120, *Burundi: Democracy and Peace at Risk*, 30 November 2006. See also Africa Briefings N°63, *Burundi: To Integrate the FNL Successfully*, 30 July 2009; N°53, *Burundi: Restarting Political Dialogue*, 19 August 2008. On the economic dimension of the conflict, see Hakim Ben Hammouda, *Burundi: histoire économique et politique d’un conflit* (Paris, 1995).

<sup>2</sup> “Reta” is the Kirundi word for state but includes central government, local government, public sector companies and the authorities in general.

<sup>3</sup> See Jean-François Bayart, *L’Etat en Afrique. La politique du ventre* (Paris, 2006) and “L’Etat clientéliste transcendé?”, *Politique africaine*, Paris (1981), pp. 122-123. See also Jean-François Médard, *L’Etat néo-patrimonial en Afrique noire* (Paris, 1991). Médard says that “neopatrimonialism” means “confusing public and private affairs, a widespread phenomenon in Africa to the extent that one has to question the very idea of the state, which precisely requires distinguishing between public and private affairs. Neopatrimonialism personalises political relations and transforms political resources into economic resources”.

<sup>4</sup> Despite several approaches, the CNDD-FDD leadership did not respond to Crisis Group’s requests for interviews.

<sup>5</sup> On political developments since the 2010 elections, see Crisis Group Report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit., and *Will Burundi Miss Out on Democratic Consolidation?* African Peacebuilding Agenda (www.crisisgroupblogs.org/africanpeacebuilding), 22 July 2011.

<sup>6</sup> See Crisis Group Report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit.

## II. POLITICS AND ECONOMICS: DANGEROUS LIAISONS

One of the poorest countries in the world, with a GDP per capita of \$170,<sup>7</sup> Burundi still lives mainly from agriculture. The primary sector accounts for 44 per cent of the GDP<sup>8</sup> but occupies close to 90 per cent of a population estimated at more than 8 million, while the secondary and tertiary sectors account for 17 and 39 per cent of the GDP respectively.<sup>9</sup> Agriculture provides most exports (coffee, tea, cotton, sugar) and foreign currency receipts, especially coffee, which involves around 600,000 families. The Burundian economy has a small internal market and limited purchasing power. It is landlocked, which increases transport costs, while over-population causes severe pressure on the land.<sup>10</sup>

Since independence in 1962, the state has played a dominant role in this small economy. It is both the largest employer with 73,000 civil servants<sup>11</sup> and the most prominent actor because of the many public companies and public procurement. The formerly Tutsi-dominated state apparatus<sup>12</sup> is now controlled by an ex-rebel movement that aims to consolidate the transfer of power to the Hutu majority.

### A. THE GOVERNMENT AND THE ECONOMY: A LONG HISTORY OF CONTROL AND CAPTURE

Since 1962, a national bourgeoisie has emerged under the protection of the state. After independence, new Burundian graduates began to take over political and administrative positions from the Belgian colonists. Until the begin-

ning of the 1980s, commerce, foreign trade and business in general mainly remained under the control of foreign nationals and Belgian companies. While accumulating capital and expertise, Burundians in the political-administrative elite gradually gained a foothold in the formal private sector and the state bourgeoisie thus gave birth to a business aristocracy.

#### 1. From the formal private sector to the war economy

With the Structural Adjustment Program (SAP) launched in 1986 but only implemented by the government of President Buyoya (1987-1993), a policy of promoting local entrepreneurship increased Burundian investments in the private sector<sup>13</sup> (foreign trade, construction, banking, oil, etc.). The main banks in Bujumbura were initially controlled by Belgian banks and then jointly by these banks and the state, but new ones were established from the late 1980s with the participation of private Burundian capital: Meridian Biao Bank Burundi (MBBB) and Interbank Burundi (IBB).<sup>14</sup> Most bank managers were drawn from a broader geographical section of the Tutsi elite than senior civil servants, who were mainly from the south of the country.<sup>15</sup>

By the start of the 1990s, two bourgeoisies had emerged in Bujumbura: one formed by civil servants and the other by businessmen who had originally been in public administration. Both of them rested on fragile foundations. The Burundian businessmen did not offer much competition to the foreign companies that were still dominant in most

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<sup>7</sup>“Burundi: Sixth Review Under the Three-Year Arrangement Under the Extended Credit Facility and Requests for Extension of the Arrangement and Augmentation of Access to IMF Resources – IMF Services Report”, July 2011. Per capita GDP was \$157 in 1994. Catherine André, “Burundi: évolution macro-économique”, Antwerp University, 1996-1997.

<sup>8</sup>Public presentation in Bujumbura on the challenges and prospects for economic growth in Burundi, IMF resident representative, 5 March 2011.

<sup>9</sup>The most recent census in August 2008 put Burundi’s population at 8,053,574. See Decree N°100/55 of 5 April 2010 publishing the results of the third general census of the Burundian population and settlements.

<sup>10</sup>See Appendix B for a summary of the Burundian economy.

<sup>11</sup>“Questions orales avec débat adressées à la ministre de la Fonction publique, du Travail et de la Sécurité sociale”, National Assembly, 1 March 2010, [www.assemblee.bi/spip.php?article173](http://www.assemblee.bi/spip.php?article173).

<sup>12</sup>On the ethnicisation of the administration, see Jean-Pierre Chrétien and Melchior Mukuri, *Burundi, la fracture identitaire: logiques de violence et certitudes “ethniques”*, (Paris, 2002), pp. 407-441.

<sup>13</sup>Catherine André, op. cit.

<sup>14</sup>At the start of the 1960s, banks in Burundi were subsidiaries of Belgian banks. In order to decolonise the sector, the country’s first president created the National Economic Development Bank (Banque nationale de développement économique), but it was only in 1985 that the government required 51 per cent of the capital of banks to be owned by Burundian nationals. The MBBB and the IBB were the first private banks with Burundian capital. A subsidiary of Meridian International Bank Limited, the MBBB, went bankrupt in 1994. The IBB was the initiative of young bankers who previously worked in a branch of a Belgian bank. For a history of the banking sector in Burundi, see Jean-Pierre Chrétien and Melchior Mukuri, op. cit., p. 337-347.

<sup>15</sup>The political-administrative and security oligarchy that controlled the government for nearly four decades (1966-2003) were from the Tutsi elite of Bururi, in the south of the country. This province provided the first three heads of state (Michel Micombero, Jean-Baptiste Bagaza and Pierre Buyoya, all from the same town, Rutovu) and produces the most graduates in the country. However, the managers of the main banks, appointed by the executive power, are from Ijenda or Mwaro, in the centre of the country, which helped to promote business initiatives by others from these regions. Crisis Group interviews, government minister under the third republic (1987-1993), Bujumbura, May 2011.

sectors. Besides, both were heavily in debt to local banks.<sup>16</sup> In addition, the state continued to play a dominant role in the modern economy and controlled cash crops, most large companies and other sectors. The SAP included a plan to privatise public companies, which were increasingly placing a heavy burden on the national budget but, as so often, privatisation was resisted by the authorities for political and social reasons.<sup>17</sup>

The policy of opening up public office to the Hutu majority in 1988 did not make inroads into the monopoly of several economic sectors by the Tutsi elites and foreign capital. When the Hutu-majority Front for Democracy in Burundi (Front pour la démocratie au Burundi, FRODEBU) came to power in 1993, it only briefly challenged the political domination of the Tutsi elites and had no impact on the composition of the business class.<sup>18</sup>

Held back by the state's excessive debt in the 1980s,<sup>19</sup> the Burundian economy weakened considerably because of the civil war starting in 1993. The suspension of foreign aid in 1996 and the embargo imposed by its neighbours, both in response to another coup by Buyoya, ran down budgetary resources, most of which were absorbed by the war effort.<sup>20</sup> To avoid economic strangulation, the government gave free rein to the "creativity" of economic actors. The authorities allowed (and even organised) the development of smuggling networks in order to lessen shortages on the local market. Institutional corruption then spread to new sectors of the economy. Part of the tea and coffee crops was bartered for fuel.<sup>21</sup>

In addition to these factors, the blight of corruption also increased because of the economic crisis and the collapse of the wage earners' purchasing power. However, this very difficult period paved the way for a new category of economic actors who were less connected to an establishment mainly formed by senior civil servants. This new economic

elite, part of which was of Hutu origin, was active in trade, import-export, mining and other sectors.

The transitional government (2001-2005) also suffered from harmful socio-economic practices. Power was greatly dispersed by an institutional system comprising the seventeen political parties that signed the Arusha peace agreement and suffered from a lack of checks and balances. In addition, many politicians seem to have used this period to improve their own financial position given the uncertainty of the post-transition period.<sup>22</sup> The integration of the CNDD-FDD into state institutions and the organisation of successful general elections in 2005 led to the resumption of aid by the country's main donors (IMF, World Bank, European Union, Belgium, etc.). Between 2003 and 2005, official development aid increased from \$253 million to \$476 million.<sup>23</sup> The Bretton Woods institutions and the EU were the main donors and, in August 2005, Burundi reached the Decision Point for the Initiative for Heavily Indebted Poor Countries (HIPC), the first stage in the debt relief process.<sup>24</sup>

## 2. Toward a new public governance

The CNDD-FDD served its apprenticeship when administering resources during the civil war. In the rebel-controlled areas, it established agricultural production groups to supply the movement and arranged coffee exports independently.<sup>25</sup> In addition to the financial and in kind contributions it received,<sup>26</sup> the rebels also taxed stores and businesses in their area of influence.<sup>27</sup>

In October and November 2003, the signature of the Pretoria Protocol on power sharing, defence and security and a general ceasefire between the transitional government and the CNDD-FDD led to the integration of the latter into state political, administrative and security institutions.<sup>28</sup> In addition to the interior ministry, the CNDD-FDD also

<sup>16</sup> Crisis Group interviews, bank managers, Bujumbura, May 2011, government minister under the third republic (1987-1993), Bujumbura, May 2011.

<sup>17</sup> Crisis Group interview, government minister under the third republic (1987-1993), Bujumbura, May 2011.

<sup>18</sup> In fact, the new governing party was quickly forced to negotiate, following the assassination of the newly-elected president and the massacres and civil war that followed. These talks led to power sharing with the main Tutsi political groups.

<sup>19</sup> Hakim Ben Hammouda, *op. cit.*

<sup>20</sup> "Breaking the cycle: a strategy for conflict-sensitive rural growth in Burundi", World Bank Working Paper N°147, July 2008.

<sup>21</sup> Crisis Group interview, company director during the embargo, Bujumbura, October 2011. On informal imports during the Burundian conflict, see Jean-Pierre Chrétien and Melchior Mukuri, *op. cit.*, p. 170.

<sup>22</sup> Crisis Group interview, political party officials, Bujumbura, August 2011.

<sup>23</sup> "Report on development aid flows 2007-2008", Permanent Secretariat of the National Aid Coordination Committee (CNCA), August 2009.

<sup>24</sup> Crisis Group interviews, diplomats, Bujumbura, October 2011.

<sup>25</sup> Crisis Group interviews, CNDD-FDD members, Bujumbura, July 2011.

<sup>26</sup> The Burundian peasant and refugee populations in camps in Tanzania generally contributed with food (beans, maize, cattle) while the diaspora and wage earners contributed financially. Crisis Group interviews, CNDD-FDD members, Bujumbura, July 2011.

<sup>27</sup> Crisis Group interviews, economic actors, Bujumbura, June 2011, former CNDD-FDD soldiers, Bujumbura, August 2011.

<sup>28</sup> The rebel movement obtained four ministerial portfolios, fifteen parliamentary seats and various positions in the diplomatic corps and local administration.

obtained the good governance and privatisation portfolio, whose minister was the party's leader, Pierre Nkurunziza. Many interpreted this choice of ministry to the rebel movement's wish to break with past corrupt practices. However, the final period of the transitional government saw repeated political crises until the 2005 general elections, when the CNDD-FDD won a clear victory.<sup>29</sup>

Amid high expectations regarding economic governance and the fight against corruption, the new government put these issues at the centre of its program for 2005-2010, entitled "Priorities for Good Governance and Economic Revival". These priorities included the transparent management of public affairs and foreign aid, the fight against corruption, the establishment of a favourable environment for private investment, improvements to the regulation and management of the civil service and the consolidation of a strategic framework for the fight against poverty.<sup>30</sup> This program included a series of reforms on governance of the public sector and economy. In September 2006, the strategic framework for growth and the fight against poverty (Cadre stratégique de croissance et de lutte contre la pauvreté, CSLP), which was adopted following broad consultations, also emphasised good governance.<sup>31</sup>

After it came to power, the CNDD-FDD introduced the reforms it had announced. The new government created a series of anti-corruption institutions, thanks to technical and financial expertise provided by donors.<sup>32</sup> In 2006, a court, prosecution office and a special brigade were created.<sup>33</sup> The anti-corruption brigade is a specialised police force conducting investigations and referring cases to the prosecutor of the Anti-corruption Court. It has offices in all regions, 39 officers and has received support from several donors.<sup>34</sup> The prosecution office prepares cases

referred to it and may open cases on its own initiative, which it passes on to the Anti-corruption Court or the Supreme Court. Two other institutions, the Court of Auditors (Cour des comptes) and the General State Inspectorate (Inspection générale de l'Etat, IGE), completed the legal and regulatory anti-corruption regime. In 2006, the IGE replaced the Inspectorate General of Finance (Inspection générale des finances, IGF) and was given a broader remit than its predecessor. All these institutions were created two years after the Court of Auditors, which examines and certifies the accounts of all public services.

Other strategic governance reforms were introduced in 2005 and the following years: the civil service statute and public finances. The statutory and legal texts on the civil service were "refreshed" by a new law that imposes certain criteria – including transparency – in the staff recruitment, under the supervision of a National Recruitment Commission.<sup>35</sup> In 2008, an organic law on the public finances was enacted, which modernised the obsolete, incomplete and imprecise legal and regulatory framework.<sup>36</sup> A new Customs Code (2007), Investment Code (2008), Public Procurement Code (2008), tax administration, Burundi Revenue Authority (Office burundais des recettes, OBR, 2009), and investment promotion agency (2010) were also created.<sup>37</sup>

## B. NEOPATRIMONIALISM IN THE PUBLIC SECTOR

The state, the country's largest employer and main economic actor, is seen as a major source of income. The CNDD-FDD's writings and propaganda denounced the political-ethnic control of the state and neopatrimonial practices,<sup>38</sup> but these same problems reappeared, just as in the past, but now to an extent hitherto unknown. A Congo-

<sup>29</sup> See Crisis Group Africa Briefing N°31, *Elections in Burundi: A Radical Shake-up of the Political Landscape*, 25 August 2005.

<sup>30</sup> "Programme du gouvernement du Burundi 2005-2010", <http://burundi.news.free.fr>, under the current affairs heading (rubrique actualités), 27 December 2005.

<sup>31</sup> "Cadre stratégique de croissance et de lutte contre la pauvreté-CSLP", Republic of Burundi, September 2006. This program aimed to refocus the role of the state in order to develop the private sector, revive economic growth and promote a new partnership with donors.

<sup>32</sup> The creation of specific institutions to combat corruption was recommended by a study conducted by the U.S. Agency for International Development (USAID). *Fighting Corruption and Restoring Accountability in Burundi*, USAID, May 2006.

<sup>33</sup> Law N°1/27 of 3 August 2006 on the creation, organisation and running of the Special Anti-corruption Brigade and Law N°1/36 of 13 December 2006 on the creation of the Anti-corruption Court.

<sup>34</sup> Belgium, France, the U.S. and the UN through the UN Integrated Office in Burundi (BINUB) and the UN Office against Drugs and Crime (UNODC).

<sup>35</sup> Law N°1/28 of 26 May 2006 on the general civil service statute and ministerial order n°574 of 29 June 2007 on the operational modalities of the National Recruitment Commission.

<sup>36</sup> "Stratégie de gestion des finances publiques assortie d'un plan d'action 2009-2011", Republic of Burundi, adopted by the Council of Ministers on 7 May 2009. This strategy provided for the opening of a single account in the name of the state at the Bank of the Republic of Burundi (BRB) for all expenditure and revenue transactions from or into the national budget, a ban on using advances from the BRB to fund government expenditure (from 2016) and the decentralisation of the authorisation of expenditure and the presentation of programs in the budgets of certain ministries (from 2014).

<sup>37</sup> "Les grandes réalisations du gouvernement en matière de gouvernance économique", Republic of Burundi, second vice presidency, Bujumbura, April 2011.

<sup>38</sup> "Profil de la société burundaise d'après-guerre ou esquisse de la philosophie politique du CNDD-FDD", CNDD-FDD permanent political studies commission, July 2001.



lese national who knows both countries asserted: “What is happening in Burundi is serious, corruption is reaching levels prevalent in the Congo”.<sup>39</sup>

## 1. Control and politicisation of the public sector

During the governments controlled by the Tutsi elites of Bururi, regionalism and ethnicism ruled access to state resources.<sup>40</sup> The new government was supposed to break with this past and base employment policies on “objective and equitable suitability criteria as well as on the need to correct imbalances and ensure broad ethnic, regional and gender representation”.<sup>41</sup> In addition, the constitution required “ethnic representation in public sector companies [to] be at the most 60 per cent Hutu and at least 40 per cent Tutsi”.<sup>42</sup> Article 144 also provides for a law to distinguish between professional, technical posts and political appointments. This law, promulgated in the aftermath of the referendum on the constitution, listed political appointments and required the recruitment of senior technical and administrative staff to be subject to a selection procedure based on merit.<sup>43</sup>

Since it came to power, the CNDD-FDD has taken over the entire public sector, including both administration and public companies. The party leadership is subject to pressure from activists and supporters, who think they should be rewarded for their role in the armed struggle and long-standing support. Demobilised fighters, diaspora activists returned from exile, activists from the interior of the country who joined the fight at the start and Tutsi who have recently joined the party also ask for jobs.<sup>44</sup> The latter, few in number compared to the Hutu, benefit from the employment quotas the CNDD-FDD has to respect according to the constitution.

For several months, the residence of Hussein Radjabu, the party leader since Pierre Nkurunziza became president, was regularly besieged by party activists looking for jobs. Although the law states that civil servants are appointed by the head of state, this role was in fact taken on by Radjabu.<sup>45</sup> Appointments were quickly made to senior posts in the civil service, until then monopolised by the Union

for National Progress (Union pour le progrès national, UPRONA) and FRODEBU, and to public companies previously dominated by the old elites.<sup>46</sup> These appointments generally respected ethnic quotas and gave many posts to Tutsis in the CNDD-FDD, some of them in key public companies<sup>47</sup> much to the dissatisfaction of Hutu activists. Proximity to the government and activism generally held sway over the criteria of competence and experience. Some graduate members of the governing party, long-time residents in Europe, and returning to support their party’s electoral campaign and possibly earn some reward, decided to go back after failing to get a job.<sup>48</sup>

In 2007, Jérémie Ngendakumana<sup>49</sup> succeeded Hussein Radjabu but this did not change the CNDD-FDD’s policy. On the contrary, the governing party strengthened its control over public companies. Although appointments were from then on submitted to a larger circle of members and to the approval of the head of state, the newly appointed were mainly drawn from within their ranks. The most important public companies were mostly led by members of the governing party, with a few exceptions.<sup>50</sup> This process weakened Tutsi representation in the management of these companies, which fuelled resentment. Hutus took over from Tutsis as directors of public companies such as Regideso and Socabu and the much coveted National Aid Coordination Committee (Comité national de coordination des aides, CNCA). This trend was confirmed after the CNDD-FDD’s 2010 electoral victory. The most important public companies are managed by members of the governing party, except for a few specific cases.<sup>51</sup>

The situation in the civil service is not much different. Senior officials appointed by the government are mainly members of the president’s party.<sup>52</sup> Clientelism and the politicisation of public sector recruitment have spread

<sup>39</sup> Crisis Group interview, journalist, Uvira, February 2012.

<sup>40</sup> See “Burundi: gouvernements, représentation politique, principaux corps d’Etat, institutions de la société civile”, [www.grandslacs.net/doc/1047.pdf](http://www.grandslacs.net/doc/1047.pdf).

<sup>41</sup> Article 143 of the constitution.

<sup>42</sup> Ibid.

<sup>43</sup> Law N°1/09 of 17 March 2005 clarifying the difference between political and technical posts.

<sup>44</sup> Crisis Group interviews, CNDD-FDD members, Bujumbura, October 2011.

<sup>45</sup> Radjabu cancelled an appointment made by the president of the republic in his absence. Crisis Group interview, CNDD-FDD deputy, Bujumbura, May 2011.

<sup>46</sup> Crisis Group Report, *Burundi: Democracy and Peace at Risk*, op. cit.

<sup>47</sup> Notably, the Water and Electricity Company (Régie de production de l’eau et de l’électricité, Regideso), the Burundi Insurance Company (Société d’assurance du Burundi, Socabu) and the Moso Sugar Company (Société sucrière du Moso, Sosumo).

<sup>48</sup> Crisis Group interviews, CNDD-FDD members, Bujumbura, July 2011.

<sup>49</sup> Jérémie Ngendakumana, a former combatant, is known to the general public because he was a CNDD-FDD spokesperson when the party entered state institutions, in which capacity he distinguished himself by his measured and conciliatory tone. His speech at his investiture at an extraordinary congress in Ngozi on 7 February 2007 was also very reassuring.

<sup>50</sup> See Appendix C.

<sup>51</sup> Crisis Group interviews, members of CNDD-FDD, Bujumbura, September 2011.

<sup>52</sup> Crisis Group interviews, senators, Bujumbura, February 2012.

amid tensions in the labour market<sup>53</sup> and flouted the new legal framework for the public sector, as the authorities bypass or even ignore laws that are based on international good practice in the field of public administration. The civil service ministry has been affected by a high turnover of ministers – fourteen to date – since the start of the crisis in 1993.<sup>54</sup> In addition, the National Commission for Recruitment is not the only route into the civil service: some ministries (education, health and justice) are not obliged to refer to it and have the right to determine their own recruitment criteria.

The civil service is now perceived as very politicised, a situation denounced by officials themselves. In an assessment of governance and corruption in Burundi, 84 per cent of education officials surveyed thought that appointments in their sector were based on political criteria and 91 per cent of justice officials believed that appointments in their sector were controlled by the executive power.<sup>55</sup> In 2010, the majority of the participants in a survey on recruitment methods in the public sector complained about the sale of jobs, widespread corruption and pressure from politicians.<sup>56</sup>

On 7 February 2012, after attending a government retreat on the issue of corruption, the president of *Parcem* was arrested and imprisoned for two weeks for having denounced, during a press briefing, that judges had to pay bribes to obtain appointments by the justice ministry, a practice that had been criticised by the first vice president of the republic himself at a meeting with the judiciary in October 2010.<sup>57</sup> The partisan and clientelistic nature of recruitment to jobs with the country's main employer fuels frustration, especially among young Tutsi coming

on to the labour market. This is a potential source of further violent conflict over the next five years in Burundi.<sup>58</sup>

## 2. Grey areas in public procurement

The state's historic role in the economy means that public procurement is especially important.<sup>59</sup> It is the government's main instrument of economic policy but, in an economy with restricted opportunities such as that of Burundi, public procurement is also a focus for corruption that recent reforms have been unable to counteract.

After an unambiguous assessment,<sup>60</sup> the government adopted new laws and structures to modernise public procurement procedures. With support from the World Bank and the African Development Bank, the authorities prepared a new public procurement code in 2008. The main innovations of this law were equal treatment for tenders, transparent procedures, consultation with the private sector and civil society, and an independent appeal mechanism.<sup>61</sup>

Contracts are now awarded in accordance with a decentralised management system, an inspectorate and a regulatory agency. Procurement units have been created in all ministries and public companies and a National Public Procurement Directorate (*Direction nationale de contrôle des marchés publics, DNMP*) has been established within the finance and economic development planning ministry to supervise their work. The Public Procurement Regulatory Authority (*Autorité de régulation des marchés publics, ARMP*) is an independent agency, which is supposed to be financially autonomous to ensure its regulatory mission of auditing contracts and dealing with appeals in the event of disputes; yet it is part of the same ministry. This

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<sup>53</sup> According to World Bank estimates, the urban unemployment rate reached 11.67 per cent in 2009. "Cadre stratégique de croissance et de lutte contre la pauvreté" (version 2), Bujumbura, August 2011.

<sup>54</sup> Batungwanayo Balthazar and Julien Nimubona, "Problématique de l'équité dans l'accès à l'emploi public au Burundi: une question fondamentale de gouvernance", Institut de développement économique au Burundi.

<sup>55</sup> "Etude diagnostique sur la gouvernance et la corruption au Burundi", good governance, privatisation, general inspectorate of local administration ministry, Bujumbura, May 2008, p. 10.

<sup>56</sup> "Rapport de l'atelier de réflexion et de sensibilisation sur les modes de recrutement dans la fonction publique", Parole et action pour le réveil des consciences et l'évolution des mentalités (*Parcem*), Bujumbura, 14 October 2010.

<sup>57</sup> The first vice president stated that: "It is said that the recruitment of a judge, a young graduate of higher education, requires an exorbitant sum of money! What do you expect from a young judge who knows that his parents or relatives have incurred debts to 'buy' an appointment to the justice ministry? His first concern will be to demand bribes to reimburse the debt or credit that has allowed him to occupy the post". See the entire speech at <http://burundi.news.fr>, under the news heading (rubrique actualités), 23 October 2010.

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<sup>58</sup> Seminar on governance and conflict organised by the World Bank Institute in Bujumbura, 31 March - 1 April 2008. This workshop was attended by about 30 representatives of universities, civil society and the public administration. It aimed to identify issues that might contribute to violent conflict during the next five years and what action would be needed to prevent this.

<sup>59</sup> "To become rich in Burundi, you need a government contract". Crisis Group interview, journalist, Bujumbura, February 2012.

<sup>60</sup> The World Bank's Economic Management Support Programme (EMSP) listed these shortcomings: "Outmoded regulations, weak institutional capacity, a lack of cooperation with the private sector and civil society, slow procedures, a lack of transparency, many allegations of corruption, abusive use of mutual agreement or restricted consultations sometimes hiding mutual agreement, the use of discriminatory technical specifications, an excessive, inappropriate and deliberate use of the price factor as a criterion to judge bids and the poor quality of tender documentation", *La Réforme des Marchés Publics*, PAGE info, Bujumbura, October 2009.

<sup>61</sup> See "Burundi: Second Economic Reform Programme", African Development Bank, October 2008 and Law N°1/01 of 4 February 2008 on the public procurement code.

institutional arrangement was the subject of broad consultations with all the sectors and partners involved.

However, respecting the new public procurement rules has been a real challenge for the government. In 2010, a \$500-million contract for communications equipment for the presidency, the provinces, the army and Bujumbura airport was reportedly signed in secret. On 7 January 2011, without specifying the reason, the government cancelled this contract,<sup>62</sup> which was worth significantly more than the country's internal revenues for 2010.<sup>63</sup> Kept secret for several months, it was revealed by Oluome and received wide media coverage.<sup>64</sup> In addition to the staggering sum of the contract, many wondered whether this contract was appropriate in such a poor country.<sup>65</sup> This outcry led the finance minister, the only person able to authorise state expenditure, to declare he had no knowledge of this contract. Meanwhile, the presidency was forced to recognise that there had been errors in the procedure for awarding it.<sup>66</sup>

Legal procedures are sometimes merely not respected. A contract for car number plates was signed in 2009 by mutual agreement in violation of the dispensation procedure.<sup>67</sup> In 2010, the foreign ministry managed a Japanese donation of 7 million litres of oil, organising its sale to an oil company while creating a management committee for it. This committee, which was supposed to organise the sale, complained about being bypassed, denounced the irregularities of the contract and demanded it be can-

celled.<sup>68</sup> The sale brought in more than BIF 7,562,000 (\$6,150,000), which was supposed to be used in accordance with the Japanese development cooperation authorities.<sup>69</sup> The second vice president of the republic denounced the fact that "the way in which this donation in kind by Japan was negotiated, accounts opened and the transaction managed violated Burundi's laws and regulations".<sup>70</sup>

The allocation of mining and oil concessions also poses a problem. Under previous regimes, consideration of applications for mining exploration permits was entrusted to experts and an inter-ministerial committee, which reported to the Council of Ministers. However, this committee has not met since the CNDD-FDD came to power. The contract to exploit the rich nickel deposits in Musongati in eastern Burundi,<sup>71</sup> which could amount to 5 per cent of world reserves, was negotiated at the highest level and in the greatest secrecy.<sup>72</sup> Permits have since been granted in a non-transparent way: although licenses are granted by presidential decree on the proposal of the appropriate ministry, as in many countries, applications for exploration and exploitation are handled by a committee restricted to the presidency before being presented to the Council of Ministers.

In 2006, the award of an exploration permit to a company called Danyland Limited, a subsidiary of Dwyka Diamonds Ltd, prompted questions in the Council of Ministers about the company's capacity to successfully manage such a project.<sup>73</sup> In the oil sector, a company granted oil explora-

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<sup>62</sup> Cancellation of contract for the purchase of products and services and annexes signed on 20 March 2010 and the preliminary contract signed on 22 April 2010 by the government of the Republic of Burundi and AAE Systems, Inc. See the document at <http://burundi.news.free.fr> under the news heading (rubrique actualités), 15 January 2011.

<sup>63</sup> Law N°1/13 of 31 December 2010 setting the general budget for 2011 provided for internal revenue of FBU 457,839,088,510 (\$339 million).

<sup>64</sup> "Burundi: une ONG dénonce un scandale politico-financier", Agence France-Presse, 24 December 2010. "Bonne gouvernance: l'Oluome dénonce un contrat mafieux de plus de 600 milliards de francs bu", Radio bonesha sans frontières, 22 December 2010.

<sup>65</sup> Crisis Group interviews, diplomats, Bujumbura, May 2011.

<sup>66</sup> "The president knows about this case whose details are currently being analysed, because perhaps, here and there, there were procedural mistakes that should be corrected", declared his spokesperson, Léonidas Hatungimana, in a press statement. "Contrat controversé au Burundi: la présidence au courant", Agence France-Presse, 7 January 2011.

<sup>67</sup> The Supplies Commission (Commission des fournitures), the agency responsible in this case for authorising a mutual agreement procedure, was simply by-passed. See the section "les nouvelles plaques d'immatriculation: un dossier emblématique de la grande corruption au Burundi" in the study "Fébrilité électorale: calmer les tensions pour réussir les élections de 2010", Observatory on Governmental Action (Observatoire pour l'action gouvernementale, OAG), January 2010.

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<sup>68</sup> "Compte-rendu de la réunion des membres du comité de gestion du 'carburant don japonais'", Bujumbura, 8 September 2010.

<sup>69</sup> "Le Japon accorde un don de plus de quatre millions de dollars", Presidency of Burundi, [www.presidence.bi/spip.php?article1188](http://www.presidence.bi/spip.php?article1188). One way in which Japan provides development aid is to donate products to governments, which can then resell them on the market and use the proceeds of the sale for development initiatives defined jointly by the beneficiary government and the Japanese cooperation authorities. Crisis Group interview, diplomat, Japanese Embassy, Nairobi, 30 November 2011.

<sup>70</sup> Speech of the second vice president on 18 March 2011 at a meeting with civil society representatives, on the issue of economic governance. [www.presidence.bi/spip.php?article1281](http://www.presidence.bi/spip.php?article1281).

<sup>71</sup> The presence of large nickel deposits in Burundi was first established in the 1970s. However, successive governments of the first republic did not manage to initiate their development, mainly because of the high investment in energy and transport infrastructure necessary for mining activities.

<sup>72</sup> Crisis Group interviews, former members of the government, Bujumbura, May 2011.

<sup>73</sup> Crisis Group interview, former government minister, Bujumbura, May 2011. For further information on the project, see "Dryka's Danyland Drills Burundi Nick Deposits to Determine Viability", Bloomberg, 4 February 2011.

tion permits only highlights other areas of expertise on its website.<sup>74</sup>

Consequently, and despite the reforms promoted by the government with support from the World Bank, an assessment of governance and corruption reported that 60 per cent of companies and 65 per cent of NGOs think that the award of public contracts “is based on bribes and personal contacts with members of the government”.<sup>75</sup> The ARMP added in its annual report that “most government departments and public companies that must observe the law have tried to get round it”.<sup>76</sup>

### C. THE PRIVATE SECTOR: OBJECT OF DESIRE

Although the private sector in Burundi is growing, it faces many problems. The constraints include the high cost of credit, the energy deficit, the level and multiplicity of taxes, a lack of basic infrastructure, the costs and delays of transport, a skills shortage, the low level of staff qualifications and corruption.<sup>77</sup>

Most Burundian companies are of modest size (90 per cent employ less than 50 people), have an annual turnover that rarely reaches \$50,000 and are poorly equipped in terms of technology.<sup>78</sup> However, some sectors record good financial results.<sup>79</sup> After the Burundi Brewery, 60 per cent owned by Heineken, which is the country’s biggest company in terms of turnover, the main taxpayers are the banks and mobile phone companies.

When the CNDD-FDD came to power, most of its leaders and members were impoverished and very few of them had any business experience. In contrast, the diaspora of the Rwandan Patriotic Front (Front patriotique rwandais, FPR) included many businessmen who had become prosperous in their adopted country. However, in addition to controlling the state apparatus, the new government wanted

to enter the business world, which it deemed “socially unbalanced”.<sup>80</sup> It tried to exercise control over economic sectors and sometimes to influence the privatisation process but CNDD-FDD dignitaries did not really manage to establish a presence in the formal private sector because of their lack of expertise and capital.

#### 1. The financial sector under surveillance

Although it was a minority shareholder in three of Burundi’s commercial banks,<sup>81</sup> the government managed, through the finance ministry, to choose the managers of these banks<sup>82</sup> against the wishes of the majority of shareholders and, by so doing, put subtle pressure on their boards of directors.<sup>83</sup> These appointments were conducted irregularly because decisions were not submitted to the general assembly of shareholders in accordance with bank statutes.<sup>84</sup> This interference by the executive creates tension with private shareholders, mainly Tutsi in the case of Burundians.<sup>85</sup> It allows the government to place CNDD-FDD members at their head.<sup>86</sup> Moreover, the government, through the central bank, has sometimes opposed the appointment of board members of private banks, sometimes for political reasons.<sup>87</sup> It also de facto continues to appoint

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<sup>74</sup> AZ Petroleum Products Ltd is owned by Chicason Holding, a Nigerian conglomerate composed of thirteen companies and based in Lagos. According to its website, A-Z Petroleum has been “engaged in the research, development, production and marketing of petroleum and petrochemical products” since 1995. The company exports refined oil and specialises in the transformation of hydrocarbons. <http://azpetroleum.com>.

<sup>75</sup> “Etude diagnostique sur la gouvernance et la corruption au Burundi”, op. cit., p. 12.

<sup>76</sup> “Rapport annuel: exercice 2010”, ARMP, Bujumbura, March 2011, p. 50.

<sup>77</sup> Hercule Yamuremye, Prudence Ndayishimiye, Michel Masabo et Emmanuel Kagisye, “Etude sur l’état des lieux du secteur privé au Burundi”, preliminary report, University of Lake Tanganyika, Bujumbura, 2 October 2011

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

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<sup>80</sup> Internal note to the second vice president on 15 March 2011 about the draft law amending Law N°1/03 of 19/02/2009 on the privatisation of public companies, which states that the private sector “is socially unbalanced” and that a “new economic class has not yet emerged to bring the situation into balance”.

<sup>81</sup> See Appendix D.

<sup>82</sup> The Banque commerciale du Burundi (Bancobu), la Banque de crédit du Burundi (BCB) et la Banque burundaise pour le commerce et le développement industriel (BCDI), all banks with a majority private shareholding, are managed by CNDD-FDD members appointed by the finance ministry.

<sup>83</sup> Crisis Group interview, shareholders, Bujumbura, November 2011.

<sup>84</sup> Ibid.

<sup>85</sup> The private shareholders of a high street bank wanted to take legal action against the government for interfering with the management of their company but decided against it because of the risk that this would not succeed and that the affair could turn into an unpredictable conflict with the government. Crisis Group interviews, shareholders, Bujumbura, October 2011.

<sup>86</sup> The government has not hesitated to appoint members to the boards of directors of these institutions. At the head of the BCB board of directors until 30 January 2012 was Clotilde Niragira, head of the president’s civil cabinet at the time of the appointment and currently solidarity, human rights and gender minister. The CNDD-FDD spokesperson, in his capacity as director and chief executive officer of Socabu, sits on the boards of this bank, Ecobank, where he is vice president, and Bancobu. In the latter institution, at least half of the ten board members are either members or close to the presidential party.

<sup>87</sup> In 2008, the representative appointed by the international group Ecobank to the board of directors of its subsidiary in Burundi was rejected by the central bank without official explanation.

the chief executive officer of the biggest insurance company, Socabu, even though the majority of the capital is held by private shareholders.

Although it does not have the capital to become a significant shareholder, the government exercises a certain level of control over the country's financial sector, which remains the preserve of the old elites, at least in terms of local shareholdings. Some dignitaries of the regime have created companies – sometimes, it would seem, in violation of the law<sup>88</sup> – and they are active, directly or indirectly, in property, hotels and trade but have not yet gained a foothold in “big business”.

## 2. Government influence over privatisation

As in other African countries, privatisation has a long history in Burundi with many twists and turns. After years of hesitation, the current government launched a privatisation program that was prudent or timid, depending on one's point of view, and not very transparent.

Already included in the 1986 SAP, privatisation experienced a significant delay. Under President Buyoya's government, it was postponed because the government, aware of the unpopularity of such a policy, did not want to inflame ethnic tensions by fuelling social conflict. He also believed that implementation of such a measure might harm him in the elections.<sup>89</sup> Reform of the coffee sector had, for example, begun in 1990 but was very “stop-go”. During the war, the issue receded before resurfacing at the beginning of the transition.

The CNDD-FDD came to power at a time when light was being shed on the disastrous financial state of many public companies.<sup>90</sup> The issue of privatisation therefore took on a new intensity but the government was reluctant to fully implement such a policy for various reasons. Unlike FRODEBU, which had a clear-cut position on this issue, the CNDD-FDD was not ideologically committed to privatisation. It thought it lacked the expertise for implementing such a reform and also believed that the process would only reinforce social inequalities between the Hutu and the Tutsi. It felt that the Tutsi business elite would be the major beneficiary of the sale of state shareholdings.<sup>91</sup> Moreover, the president's party was not in a hurry to implement a reform that would deprive it of a political clientele.<sup>92</sup>

However, because of the bankruptcy or inability to make payments of several public companies and despite the government's vain attempts to find alternatives, privatisation became inevitable, especially as the state is largely dependent on development aid,<sup>93</sup> including from the World Bank. A law adopted in 2009 determined the mission and composition of the agency in charge of supervising privatisation procedures, the Inter-Ministerial Privatisation Committee (Comité interministériel de la privatisation, CIP).<sup>94</sup> As this organ was purely decision-making in nature, the preparation and implementation of privatisations were the responsibility of the State Privatisation Agency (Service chargé des entreprises publiques, SCEP),<sup>95</sup> which had the duty to “supply analysis and decisions to the bodies in charge of ... procedures to privatise public companies, liquidate those that are no longer viable and rehabilitate those that are to remain under the state's control, notably through performance contracts negotiated and agreed with the relevant company”.<sup>96</sup> Despite opposition from senior

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The person proposed, a renowned Burundian economist who had successfully managed one of the country's main banks, had made the mistake of opposing the sale of the holdings of the main shareholder, a Belgian bank. He was also known for his criticisms of the macroeconomic management of the country. Crisis Group interviews, bank managers, Bujumbura, October 2011.

<sup>88</sup> Burundi Car Services, whose founders include police colonel Nikiza David (Articles of Association, Burundi Car Service S.A.), has supplied lubricants to the public security ministry, which employs the colonel. A report by the General Inspectorate of Security mentions this irregularity: “Among the directors of the company is a military officer and a police officer, which is incompatible with Article 14 paragraph c) of Law N°1/06 of 2 March 2006 on the status of national police personnel”. This article states that employment as a police officer is incompatible with being “member of the board or administrative organs of private, commercial or industrial companies that have relations with the service, with the exception of those representing the interests of the state in private establishments”. “Rapport d'inspection sur le dossier de fourniture des huiles au ministère de la Sécurité publique”, General State Inspectorate, December 2010.

<sup>89</sup> Crisis Group interview, former official under the third republic (1987-1993), Bujumbura, May 2011.

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<sup>90</sup> “Economie burundaise 2009”, Institut de développement économique et social (IDEC).

<sup>91</sup> Crisis Group interviews, CNDD-FDD deputies, Bujumbura, June 2011.

<sup>92</sup> Radjabu also wanted to postpone the process in order to give him time to find potential foreign investors as partners. Crisis Group interview, former CNDD-FDD leader, Bujumbura, May 2011.

<sup>93</sup> In 2011, 50.6 per cent of the general budget was provided by foreign aid. Law N°1/13 of 31 December 2010 on the general budget of Burundi for 2011.

<sup>94</sup> See Law N°1/03 of 19 February 2009 on the privatisation of public companies, services and public works.

<sup>95</sup> Unlike other Burundian public structures, the SCEP did not respond to Crisis Group's requests for an interview.

<sup>96</sup> See the heading “Missions et attributions” on the SCEP website: [www.scep.bi](http://www.scep.bi).

members of the government,<sup>97</sup> it privatised the coffee sector with the support of the Bretton Woods institutions.

After the government's decision to withdraw from the coffee sector in December 2008, new organs, such as the Burundi Coffee Regulatory Authority (Autorité de régulation de la filière café du Burundi, ARFIC) and the Association of Coffee Growers (Association Interprofessionnelle des acteurs de la filière café, Intercafé) were created and thirteen of the proposed 117 washing stations were acquired by a private Swiss company called Webcor. The CIP and the second vice president of the republic turned down two competing Burundian tenders.<sup>98</sup> New calls for tenders were long delayed, notably because of a dispute with a coffee growers' association, but were launched in November 2011, without any participation by Webcor. In February 2012, 28 washing stations, as well as a curing and packaging company (Sodeco) were privatised, mainly to Burundian businessmen.<sup>99</sup>

Other privatisations took place in circumstances that were sometimes not transparent and with government intervention. SCEP organised privatisation of some of these companies in a very transparent way, for example, the International Hotel Company of Burundi (Société hôtelière internationale du Burundi, SHIB) and the National Pharmaceutical Office (Office nationale pharmaceutique, Onapha).

However, privatisation of the Bujumbura Public Abattoir turned into an arm-wrestling match between the government and economic interests that are mainly Tutsi.<sup>100</sup> The first call for tender was published on 15 August 2008 and bids were opened on 4 October 2008. There were three bids, including an in-house bid by company staff, mostly Tutsi. On 10 January 2009, the latter learned their bid had been successful. However, six months later, they were informed that no bid had been accepted. On 24 December 2009, SCEP launched a new call for tender, stating that bids would be opened on 22 February 2010. The valuation of the company had meanwhile doubled. The date for opening bids was then postponed. The only bid came from the same group that won the contract the first time round. Finally, a new call for tender took place on 26 March 2010. The SCEP accepted it but it was only on 18 August 2010 that the good governance minister wrote to the successful bidders to initiate the procedure for trans-

ferring them the company. Despite the signatures on the contract, the new owners faced various pressures and problems before they were able to complete the operation.<sup>101</sup> The group finally obtained the company thanks to the intervention of the new second vice president.<sup>102</sup>

Some companies were leased on a long-term basis without a call for tender. The case of the Burundi Textile Complex (Cotebu), initially entrusted to SCEP, was then negotiated without informing the commerce, industry, tourism and post minister, who officially protested against this procedure.<sup>103</sup> The concessions for the Bujumbura Nautical Circle (Cercle nautique de Bujumbura) and the Resha Tourist Centre were equally problematic.<sup>104</sup> The two companies were awarded to a Rwandan businessman without any call for tender. This contract is still the subject of legal action in court by the National Office of Tourism, signatory on behalf of the Burundian state.<sup>105</sup>

The new political elites seemed little prepared for the implementation of privatisation. Furthermore, their lack of education or experience in business does not encourage investment in sectors that are too competitive or technical. The new elites seem much more interested in relatively sure investments such as property and hotels. Despite the new government's concerns about who would benefit from privatisation, foreign groups and nationals have been the main beneficiaries so far.<sup>106</sup>

<sup>97</sup> The second vice president of the republic, at the instigation of Hussein Radjabu, tried to oppose it by writing to the National Assembly supporting such a view in 2006.

<sup>98</sup> The second vice president of the republic, Gabriel Ntisezerana, chaired the CIP during his entire time in the executive, contrary to the law that says this should come under the authority of the minister in charge of privatisation.

<sup>99</sup> Crisis Group interview, businessmen, Bujumbura, March 2012.

<sup>100</sup> Crisis Group interviews, former members of SCEP, Bujumbura, May 2011.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> See correspondence referenced 750/1015/C.M/2010 of the letter from the commerce, industry, post and tourism minister to the presidency minister in charge of good governance and privatisation.

<sup>104</sup> Crisis Group interview, former members of SCEP, Bujumbura, May 2011.

<sup>105</sup> Crisis Group interview, director of the National Tourism Office, Bujumbura, May 2011 and March 2012.

<sup>106</sup> See Appendix E.

### III. THE “DIVIDENDS” OF THE CORRUPTION CRISIS

The governing party’s hold over the public sector and its attempts to control the private sector are causing institutional deadlocks, sullyng the country’s international reputation, provoking social discontent, putting the pact between the political and economic elites under strain and causing political tensions, including within the CNDD-FDD. The strategies of capture and control have led to a real crisis of corruption that, in the long term, risks destabilising a country where unequal access to and distribution of resources were the root causes of a decade-old civil war.<sup>107</sup>

#### A. INEFFECTIVE ANTI-CORRUPTION INSTITUTIONS

A framework for fighting corruption is certainly in place but, in addition to a lack of resources and an incomplete institutional architecture, the main problem is the lack of independence.

In the five years of its existence (2007-2012), the anti-corruption brigade has more than made an honourable attempt to confront the problem: it has dealt with 655 cases of corruption and recovered more than \$4 million.<sup>108</sup> The Anti-corruption Court has ruled in 556 out of the 682 cases submitted from its creation to the end of 2011. In addition, in September 2010, the court ordered the arrest of three public companies officials.<sup>109</sup> The Court of Auditors has meanwhile completed seven reports on draft budgets and seven reports on their implementation as well as reports on specific issues.<sup>110</sup>

However, even though the special brigade has submitted cases implicating the authorities to the anti-corruption prosecutor’s office, these have generally not been followed up. Arrests are rare and proceedings even more so.<sup>111</sup> The

judiciary is seldom the source of revelations about major cases of corruption and political and administrative senior officials seem to benefit from impunity.

The recommendations of the Court of Auditors reports submitted to parliament are often not considered by either the executive or the legislature, to which this agency is responsible. The court unsuccessfully asked the government to stop funding budget deficits with advances from the Central Bank and Treasury bonds, to meet the deadlines required by the constitution for the preparation and adoption of the general budget and to harmonise the way different state services are treated in order to avoid repeated corporatist claims.<sup>112</sup>

The anti-corruption institutions tackled some cases of corruption when they were first set up but their “aggressiveness” seems to have cooled after several grand gestures. In a report on the management of the national disarmament, demobilisation and reintegration program (DDR) for ex-combatants, the IGE uncovered significant malpractice implicating the program’s senior officials. The report resulted in the dismissal of the highest official after strong pressure from the World Bank, the program’s main donor.<sup>113</sup> Following this case, supervision of the IGE was transferred from the good governance ministry to the presidency. Similarly, at the end of 2010, the independent finances and management of the ARMP was called into question and its funding was reduced to a government grant only.<sup>114</sup>

The heads of these anti-corruption<sup>115</sup> institutions are also often subjected to strong pressure,<sup>116</sup> adding to the direct supervision of the executive. They lack independence because some of their staff are activists or hold political office in the presidential party,<sup>117</sup> and as for the judges, they

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ref. 14/Olucome/01/2012, Bujumbura. Crisis Group interviews, diplomats, Bujumbura, January 2011.

<sup>112</sup> Crisis Group interview, former president of the National Audit Office, Bujumbura, December 2011.

<sup>113</sup> Crisis Group interviews, diplomats, Bujumbura, January 2012.

<sup>114</sup> “Rapport annuel, exercice 2010”, ARMP, Bujumbura, March 2011, pp. 47-48.

<sup>115</sup> Article 18 of Law N°1/12 of 18 April 2006 on measures to prevent and suppress corruption and associated offences stipulates that court and prosecutor office judges are appointed by decree after proposal by the justice ministry and approval by the Senate. Article 1 of Law N°1/36 of 13 December 2006 creating the Anti-corruption Court provides that it forms part of the country’s judiciary. Its budget forms part of the budget allocated to the justice ministry (Article 3) and its internal regulations are set by order of the justice minister (Article 7).

<sup>116</sup> Crisis Group interviews, anti-corruption agency personnel, Bujumbura, August 2011.

<sup>117</sup> The president of the permanent forum of political parties, Melchiade Nzopfabarushu, a member of the CNDD-FDD, was for several years (2007-2011) at the same time assistant-com-

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<sup>107</sup> Empirical studies show that a high level of corruption increases the risk of violence, World Development Report, World Bank, 2011, p. 75.

<sup>108</sup> These figures are mentioned by the head of the anti-corruption brigade in the article “Le privilège de juridiction, un frein à l’éradication de la corruption”, *Iwacu*, 20 January 2012.

<sup>109</sup> Crisis Group interview, president of the Anti-corruption Court, Bujumbura, December 2011.

<sup>110</sup> Crisis Group interview, former president of the National Audit Office, Bujumbura, December 2011.

<sup>111</sup> Most of these cases (Lubelski, Falcon 50, “aircraft that do not fly”) seem to have come to a standstill in the prosecutor’s office. “Les grandes réalisations du gouvernement en matière de gouvernance économique”, second vice presidency, Bujumbura, April 2011, pp. 22-23. Olucome has also produced a list of pending cases in a letter to the presidency, dated 25 January 2012,

do not have security of tenure.<sup>118</sup> Moreover, the effectiveness of these agencies is limited by the usual problems of coordination and institutional rivalry<sup>119</sup> but also by budget limitations. In the 2012 state budget, the IGE has about FRB 1.2 billion (about \$900,000), the Court of Auditors has FRB 620 million (\$460,000), the Anti-corruption Court has FRB 427 million (\$320,000) and the anti-corruption brigade FRB 774 million (\$570,000). In total, in 2012, only \$2.5 million was allocated for anti-corruption institutions, which is only about \$400,000 more than in 2011 while it is one of the government's political priorities.<sup>120</sup>

In addition to underfunding, there is a key missing element (High Court of Justice) and the government has a poor reputation for honesty because of its history of abuses. The constitution provided for the creation of a High Court to judge the president, vice presidents and the presidents of the two chambers but it has not yet been created so it is impossible to bring charges against members of the government.<sup>121</sup> The constitution states that "members of the government are answerable to the Supreme Court"<sup>122</sup> as are deputies and senators.<sup>123</sup>

Moreover, some anti-corruption agency officials seem to exceed their remit. In December 2011, the hasty arrest by

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missioner of the anti-corruption brigade. He was also a member of the governing party's campaign team in 2010. The Ombudsman appointed in November 2010 was a member of the CNDD-FDD Council of the Wise Men at the time of his appointment, which raised questions in Bujumbura political circles. See Crisis Group Report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit.

<sup>118</sup> According to the Statute of the Judiciary (articles 21 and 22 of Law N°1/001 of 29 February 2000 on reform of the Statute of the Judiciary), judges are appointed for life and cannot be removed against their will. They may be moved to a post of at least the same grade in a jurisdiction at the same level. However, the profession complains that this important provision is not observed. This issue forms part of the list of demands of judges, who went on strike several times in the second half of 2011. Crisis Group interviews, judges, Bujumbura, January 2012.

<sup>119</sup> Some observers believe that rivalry over salaries causes judges of the Supreme Court, the country's highest jurisdiction, to deal slowly with cases referred by the anti-corruption court because the judges of the latter institution are one point above them on the pay scales. An official said that he believed this was caused by the Supreme Court's heavy caseload. Crisis Group interviews, heads of the anti-corruption institutions, Bujumbura, August and December 2011.

<sup>120</sup> All these figures are taken from Law N°1/24 of 31 December 2011 setting Burundi's general budget for 2012.

<sup>121</sup> Article 234 of the constitution.

<sup>122</sup> Article 136 of the constitution.

<sup>123</sup> Article 151 of the constitution states that "the deputies and senators answer to the Supreme Court in accordance with the law governing the latter and the law setting out the judicial organisation and competence code".

the prosecution office of three managers of the Leo-Ucom telecommunications company for fraudulent fiscal statements following speedy investigations by the anti-corruption brigade, without the relevant agency, in this case the OBR, being asked for an opinion,<sup>124</sup> caused a stir in business circles. Despite their rapid release after pressure from various sources, and because of procedural mistakes, this case weakened the credibility of these institutional checks and balances and showed some of the difficulties faced by the business community.

In the National Assembly, the last concrete initiative in the fight against corruption was back in 2008, when the report of a parliamentary commission of inquiry into the retrocession of the presidential Falcon aircraft recommended judicial proceedings against the then-head of the president's cabinet and the then-finance minister.<sup>125</sup> This report was submitted to the prosecutor's office and shelved. When all is said and done, the fight against corruption is increasingly perceived as being the job of civil society, especially organisations such as Olucome, whose work on this issue is all the more remarkable given the murder of its vice president<sup>126</sup> and the constant pressures on its directors.

## B. THE DETERIORATION OF BURUNDI'S IMAGE AND TENSIONS WITH DONORS

Burundi's image has suffered as a result of the corruption crisis. When the country appeared in Transparency International's Corruption Perceptions Index for the first time in 2006, it ranked 130th out of 159 countries. Its position stabilised during the following two years (130th out of 163 in 2007 and 131st out of 179 in 2008) before falling to 172nd out of 182 countries in 2011.<sup>127</sup> Among the East

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<sup>124</sup> In a press release, the company Leo-Ucom publicly protested at this arrest: "It received the correspondence from the Anti-corruption Brigade requesting financial documents for 2007 and 2008. It had done everything possible to submit them to the Brigade. It was an unwelcome surprise to find that the officers in charge of the case unfairly mistreated company managers to the extent of imprisoning them on the grounds that the documents were not authentic. When such doubts exist, the treatment and punishments are clearly provided for in the law on fiscal matters. After all that, Leo-Ucom is now demanding the release of its managers and that the case is dealt with in accordance with the appropriate legal procedures, and respecting taxpayers' rights and guarantees". *Iwacu*, 30 December 2011.

<sup>125</sup> "Rapport de la commission d'enquête parlementaire sur la vente de l'avion présidentiel 'Falcon 50'", Bujumbura, July 2008.

<sup>126</sup> Ernest Manirumva, Olucome's vice president was killed in April 2009. See "Burundi: l'assassinat d'Ernest Manirumva, un défenseur des droits de l'homme: deux ans après, un déni de justice", report of mission from 16 to 21 January 2011, Observatoire pour la protection des défenseurs des droits de l'homme, Bujumbura, April 2011.

<sup>127</sup> <http://cpi.transparency.org/cpi2011/results/#CountryResults>.



African Community (EAC) countries, Burundi was considered the most corrupt for the second consecutive year in 2011.<sup>128</sup> The World Bank also places it in the category of countries whose institutional performance is very mediocre. According to its annual evaluation, nothing changed between 2006 and 2010 (the country's index increased from 3 to 3.1). The evaluation of transparency, accountability and corruption in the public sector indicates a clear deterioration between 2006 and 2010 (from 2.5 to 2).<sup>129</sup> Moreover, the high level of corruption in the administration is officially recognised.<sup>130</sup>

Tensions with development partners have increased with corruption cases. The first case to provoke a reaction from donors was the sale of the presidential aircraft in 2006, which led the World Bank to request an audit.<sup>131</sup> In 2007, the Interpetrol scandal broke, in which the public treasury was deprived of more than \$10 million. These two cases had an effect on budgetary aid, which was postponed during the 2007 financial year.<sup>132</sup> Although other cases of corruption and allegations of economic malpractice implicating government officials during the CNDD-FDD

government did not have as big an impact, the murder of Olucome's vice president in April 2009 raised new questions in the donor community.

These concerns about governance were expressed in the joint guidance document on European policy in Burundi<sup>133</sup> and caused new tensions, especially with the main donor, the EU, about the implementation of certain programs.<sup>134</sup> A sign of its dissatisfaction, Brussels requested implementation of Article 8 of the Cotonou Agreement, which provides for political dialogue. A first meeting between the government and European ambassadors was organised in the first half of 2011 and a second, which lasted several hours, was held in February 2012. Donors see an improvement in governance as the biggest issue and the main donors do not hesitate to make this a priority of their aid as well as an explicit criterion for their support.<sup>135</sup>

Aware of Burundi's considerably tarnished image, President Nkurunziza repeatedly expressed his commitment to the fight against corruption<sup>136</sup> and launched a "zero tolerance" policy.<sup>137</sup> In October 2011, the Council of Ministers

<sup>128</sup> "East African Bribery Index (EABI) 2011 Launch: Burundi most corrupt country in East Africa", press release, Transparency International, 20 October 2011. Also see "EAC's poorly rankings on ease of doing business", *Diplomat*, September 2011.

<sup>129</sup> See "International Development Association Resource Allocation Index", 2006 and 2010, World Bank. Country Policy and Institutional Assessment (CPIA) Criterion n°16, entitled: Transparency, Accountability and Corruption in the Public Sector, assesses the extent to which the executive power can be held accountable for the use of public funds and its policies by voters and the legislative and judicial powers and the extent to which officials are accountable for their actions and results. Country Policy and Institutional Assessments, Operations Policy and Country Services, World Bank, 2009.

<sup>130</sup> "A high level of corruption" is one of the weaknesses of the Burundian government and one of the challenges it faces. "National strategy for good governance and the fight against corruption", presidency ministry in charge of good governance and privatisation, Bujumbura, October 2011, p. 28. The president also recognises the problem. "Aware of the urgency of the situation, we have put the promotion of good governance and the fight against corruption at the centre of our political program, promulgated new laws to prevent and eradicate corruption and created new institutions to promote good governance and fight corruption and similar offences". Speech by the president of Burundi at the opening of the conference of African anti-corruption institutions, Bujumbura, 20 June 2011.

<sup>131</sup> "Audit d'un contrat de cession d'actifs intervenu entre le gouvernement et une partie privée", preliminary report, Decision/Analysis Partners, 2 January 2007.

<sup>132</sup> "In 2007, partners reduced the pace of disbursements slightly following the financial scandals that occurred that same year, notably the Falcon 50 and Interpetrol cases". Rapport sur les flux d'aide publique au développement 2007-2008. Permanent Secretariat of the CNCA, Second vice presidency, Bujumbura, August 2009.

<sup>133</sup> "Document d'orientation conjoint sur la politique européenne au Burundi", Secretariat of the EU General Council and European Commission in cooperation with the EU special representative to the African Great Lakes, July 2009.

<sup>134</sup> At least two programs were referred to the EU's anti-corruption agency (European Anti-Fraud Office, OLAF) and investigations are underway. Crisis Group interview, member of EU delegation, Bujumbura, August 2011.

<sup>135</sup> The Belgian development aid minister mentioned the risk of a "loss of donor confidence" in Burundi, while the EU ambassador stressed corruption's negative impact on development. "Corruption: Olivier Chastel invite Bujumbura à des efforts", *Libre Belgique*, 6 September 2011 and "Ambassadeur de Loecker: la corruption est un obstacle majeur au développement", *Iwacu*, 9 June 2011. During a visit by Belgian investors at the start of March 2012, the Belgian ambassador also highlighted the need to improve governance. "Un regard vigilant", *Iwacu*, 2 March 2012.

<sup>136</sup> "We have already proclaimed zero tolerance to all those guilty of corruption, financial malpractice and other related offences. This should not be understood as simply being a slogan". Extract from the inauguration speech of HE Pierre Nkurunziza, 26 August 2010, [www.presidence.bi/spip.php?article694](http://www.presidence.bi/spip.php?article694). In his speech at the opening of the third general assembly and meeting of the executive committee of the East African association of anti-corruption institutions, 29 October 2009 in Bujumbura, the president set out his views on corruption and reiterated his commitment to this struggle. See also see Crisis Group Report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit., p. 19.

<sup>137</sup> Zero tolerance is an expression first popularised in Kenya by President Kibaki in his electoral campaign. Shortly after his election, he launched a public campaign, promulgated a law and created a commission to combat corruption. Despite or because of his lack of realism, the expression spread across Africa and was used by many governments (Togo, Democratic Republic of Congo, Angola, etc.).

adopted a national strategy for good governance and the fight against corruption (Stratégie nationale de la bonne gouvernance, SNBG), even though it was more the work of the World Bank and the second vice president. The appointment of a reputable technocrat to this post – second vice president and member of the executive in charge of socioeconomic questions – was the second strong sign of President Nkurunziza’s desire to avoid the recurrent scandals of his first term in office. Unfortunately, these good intentions were not translated into good practice.

Certainly, in the aftermath of the creation of new institutions following the 2010 elections, three officials of public companies were imprisoned for economic malpractice. However, only a few months after the president’s speech, new cases of corruption implicated senior officials, who, however, remained undisturbed.<sup>138</sup>

Since 28 February 2011, Manassé Nzobonimpa, a member of the EAC parliament and former executive secretary of the CNDD-FDD Council of Wise Men, the governing party’s supreme organ, has regularly denounced the corrupt practices of his party. In particular, he stated that Uganda’s repayment of \$13 million to Burundi in 2007 to settle an old debt had been misappropriated by officials in the ruling party and the executive branch of government.<sup>139</sup> His revelations had an impact on relations between the Burundian government and its development partners, as recognised by the second vice president during a speech in March 2011.<sup>140</sup>

### C. MOUNTING SOCIAL TENSION

Burundian radio stations deserve credit for allowing ordinary people to express their discontent. Urban residents are increasingly exasperated by their daily living conditions, which are characterised by a range of shortages and an overall increase in prices.<sup>141</sup> Between October 2011 and January 2012, the price of all basic food items has risen, for example, rice (12 per cent), wheat flour (20 per

cent) and cassava flour (18.6 per cent).<sup>142</sup> According to a group of about 100 civil society organisations, the cost of water has increased by four and the cost of electricity by three since the first official rise in September 2011.<sup>143</sup>

Within a year, the price of petrol has increased by a little over 20 per cent.<sup>144</sup> Although it is true that the international market may dictate some increases, it is more difficult to understand why these prices rise and fall continuously to the extent that the price of fuel changed eight times within one year. In addition, the price structure for this product has caused recurring conflicts between the oil sector and the government for years and in August 2011, Burundi experienced fuel shortages for almost a month, an unprecedented phenomenon since 1979.<sup>145</sup> Although this crisis was temporarily resolved, it highlighted the problems faced by the government when managing such a strategic sector.

Burundi’s main cities are also subjected to power cuts<sup>146</sup> and water rationing. This is common because the demand for energy is much greater than the capacities of Regideso and because the water levels in the dams that supply the capital have lowered. Water is rationed in most Bujumbura neighbourhoods and some have no supply at all.

Unemployment has hit the population hard.<sup>147</sup> Although there are no reliable recent statistics, the crowds of idle young people in town centres and on the outskirts and the particularly high number of applications for jobs are revealing, in the absence of other indicators.<sup>148</sup> In addition, while towns continue to attract young people attempting to escape rural poverty,<sup>149</sup> many young university gradu-

<sup>138</sup> Crisis Group interviews, diplomats, Bujumbura, August 2011.

<sup>139</sup> Following his accusations, Nzobonimpa was expelled from the CNDD-FDD during a general meeting of the party held on 12 March in his home province of Bubanza, in the presence of the head of state and president of the Council of Wise Men, Pierre Nkurunziza.

<sup>140</sup> “Un des principaux dirigeants exclu du parti présidentiel”, Agence France-Presse, 13 March 2011.

<sup>141</sup> Inflation rose above 26 per cent in 2008 and then stabilised below 10 per cent in 2009 and 2010 before rising markedly in 2011. “Cadre stratégique de croissance et de lutte contre la pauvreté” (second version), Bujumbura, August 2011.

<sup>142</sup> “Indicateurs macroéconomiques, les chiffres augmentent”, *Iwacu*, 2 March 2012. “Associations et syndicats en colère contre la misère”, Agence France-Presse, 4 November 2011.

<sup>143</sup> “Burundi: les nouveaux tarifs de l’eau et de l’électricité resteront en vigueur”, Radio France Internationale, 8 March 2012.

<sup>144</sup> “Burundi: verrouillage de l’espace démocratique et insécurité grandissante”, Observatory on Government Action, Bujumbura, October 2011, p. 82.

<sup>145</sup> Crisis Group interview, oil sector businessmen, Bujumbura, November 2011.

<sup>146</sup> The electrification rate is 2 per cent. “Un plan d’action pour les infrastructures au Burundi: accélérer l’intégration régionale”, African Development Bank, September 2009.

<sup>147</sup> The World Bank estimates that the urban unemployment rate reached 11.67 per cent in 2009. “Cadre stratégique de croissance et de lutte contre la pauvreté (second version)”, Bujumbura, August 2011.

<sup>148</sup> Crisis Group interviews, economic actors, Bujumbura, October 2011.

<sup>149</sup> Marc Sommers and Peter Uvin, “Youth in Rwanda and Burundi, Contrasting Visions”, special report 293, United States Institute of Peace, Washington DC, October 2011.

ates are accepting underpaid jobs once reserved for unqualified workers (security guards, taxi drivers, etc.).

Civil society organisations overtly criticise the increase in the cost of living, especially the Consumers Association of Burundi (Abuco); and they have several times threatened to organise demonstrations. They denounce the fact that “dignitaries are getting excessively rich, because they grant themselves the right to not pay income tax ... and receive water, electricity, fuel and telephone free of charge”.<sup>150</sup> Aware of the depth of this social discontent and the role of urban youth in the Arab Spring,<sup>151</sup> the government has not authorised such demonstrations yet and has, at first, prevented the organisation of conferences on this problem.<sup>152</sup> However, the recent rise of the price of water and electricity led a group of civil society organisations to call for a general strike after the negotiations with the government failed.<sup>153</sup>

#### D. THE WEAKENING OF THE PACT BETWEEN THE ELITES

In Burundi, with new governments have sometimes come settling of accounts against economic actors close to the previous regime.<sup>154</sup> Although the business sectors traditionally dominated by the Tutsi managed to adapt without too much trouble to UPRONA and FRODEBU cohabitation (1996-2005), the accession to political power of a Hutu party led them to formulate strategies to adapt to the new situation. However, there is both a sense of resentment and a will of cooperation among the business community and the first signs of disengagement have appeared.

During the 2005 elections, the Tutsi economic elites were aware that they would have to reach agreement with a Hutu government, given that only the CNDD-FDD and the FRODEBU, two Hutu-majority parties, were in a position to win the elections. UPRONA had too small an electoral base. Even though very few Tutsi businessmen

joined either of these two political parties,<sup>155</sup> several of them made a financial contribution after being requested to do so,<sup>156</sup> hoping to get in the good books of the future government. However, most Tutsi businessmen did not join in this game and preferred to fund the party of their choice. That said, they were concerned about the CNDD-FDD’s comfortable victory in the legislative elections (receiving 58 per cent of votes).

When the CNDD-FDD came to power, it did nothing to try to dispel the business community’s concerns. On the contrary, businessmen, mostly Tutsi, quickly received requests for funds and they saw their access to government contracts become increasingly difficult.<sup>157</sup>

Tutsi economic actors reacted to this situation in different ways. Some decided to join the CNDD-FDD without advertising their new political affiliation. Others acquiesced with the various material and financial requests from the executive<sup>158</sup> and the party. A small minority refused to compromise. It was particularly this latter group that diversified into sectors less subject to political pressure. For example, several Tutsi economic actors switched from government contracts into property and other sectors more protected from the exercise of political power.<sup>159</sup> Other businessmen, most of whom had lived in Burundi for a long time, relocated some of their activities or simply settled in another country. This was especially the case of several European economic actors and Azam, a rich Tanzanian businessman.<sup>160</sup>

The privatisation of Bujumbura abattoir is not the only example of friction between Tutsi economic interests and those of the new political elite. Land allocation is yet another source of tension. Although it was discriminatory and elitist under previous governments, the acquisitions were generally conducted legally because of the extensive powers of the authorities in this matter.<sup>161</sup> Many properties owned by the old elites on the Rusizi plain (one of the

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<sup>150</sup> “Associations et syndicats en colère contre la misère”, Agence France-Presse, 4 November 2011.

<sup>151</sup> “All change, please Africa’s long hot summer”, *The Africa Report*, December 2011.

<sup>152</sup> Civil society was prevented from holding a meeting on the high cost of living in Burundi. <http://old.isanganiro.org/spip.php?article4940>; “Augmentation record du prix de l’eau et de l’électricité”, Agence France-Presse, 2 September 2011.

<sup>153</sup> Crisis Group interview, local civil society organisation’s president, Bujumbura, March 2012.

<sup>154</sup> At the time of Buyoya’s removal of Bagaza from office, Tribert Rujugiro, the then richest businessman of Rwandan origin, was arrested and imprisoned for several years before escaping and some of his property was confiscated.

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<sup>155</sup> However, Tutsi businessmen having problems with the tax authorities and/or the legal system or close to bankruptcy joined the CNDD-FDD before the party’s first victory in the 2005 general elections. Crisis Group interviews, CNDD-FDD deputies, Bujumbura, June 2011.

<sup>156</sup> Crisis Group interviews, economic actors, Bujumbura, June 2011.

<sup>157</sup> Ibid.

<sup>158</sup> The presidency customarily asks the business community to construct “good works” such as schools, hospitals and stadiums. Crisis Group interviews, economic actors, Bujumbura, July 2011.

<sup>159</sup> Crisis Group interviews, economic actors, Bujumbura, February 2012.

<sup>160</sup> Ibid.

<sup>161</sup> Article 234 of Law N°1/08 of 1 September 1986 on the Burundian land code.

most coveted regions because of its rich soil, its Lake Tanganyika shore and proximity to the capital) are now considered illegally allocated land.<sup>162</sup> Members of the executive and CNDD-FDD deputies have tried in vain to include provisions in the law to cancel the land rights of the old elites.<sup>163</sup> The local authorities are in charge of this issue and deal with it on a case-by-case basis, which has resulted in a certain number of compromises. The equitable distribution of these lands is certainly a legitimate aim but is unfortunately countered by the granting of plots to the new elites, especially in the same regions.<sup>164</sup>

## E. TENSION WITHIN THE GOVERNING PARTY

The corruption scandals that have occurred since the CNDD-FDD came to power have caused internal tension, sometimes bordering on crisis. In 2007, the expulsion of Hussein Radjabu from the party leadership and the ensuing political crisis were the result of financial administration issues and the revelations that followed. The completely illegal allocation of a monopoly on the sale of sugar produced by Sosumo to seven traders, including four CNDD-FDD members, as well as the purchase without a call for tender of more than 200 vehicles for members of Parliament by a deputy close to Radjabu provoked strong internal criticism.<sup>165</sup> Mathias Basabose, deputy and general commissioner for the evaluation and monitoring of activities within his party, revealed several affairs implicating the CNDD-FDD leadership and was expelled from the party. In addition, the second vice president of the republic, who denounced Hussein Radjabu's control over the

executive, was forced to resign.<sup>166</sup> Eventually, at the beginning of 2007, Radjabu was officially dismissed because of his solitary and secret style of party management.<sup>167</sup>

Radjabu did not go quietly and his supporters organised an internal dissident movement causing an open political crisis within the party. This split also affected government institutions as a certain number of deputies and senators resigned from the party and launched a "parliamentary group committed to law enforcement".<sup>168</sup> This group was mainly composed of his close associates, others beholden to him and individuals who had benefited from the system of sinecures created by Radjabu. Their membership of the parliamentary opposition paralysed the National Assembly for more than a year because the opposition deputies boycotted sessions. Finally, his supporters were expelled and replaced in the lower house of parliament in very questionable circumstances.<sup>169</sup> However, they continued to challenge the government through the Union for Peace and Development (Union pour la paix et le développement, UPD), an opposition party that is now a member of the Democratic Alliance for Change (Alliance démocratique pour le changement, ADC-Ikibiri).<sup>170</sup>

Following the contentious resolution of the institutional crisis, the CNDD-FDD found a semblance of unity around the new party leadership. However, many cases of corruption and economic malpractice led to the downfall of several party members. In January 2007, Dieudonné Ngowembona, the planning, development and national reconstruction minister and finance minister at the time of the sale of the presidential aircraft, was dismissed from the government for his role in this affair. However, no legal proceedings were launched against him and he joined the opposition. In July 2007, the new finance minister, Denise Sinankwa, went into exile to escape legal action against her in the Interpetrol case. The governor of the Central Bank, Isaach Bizimana, was arrested and imprisoned at the beginning of August 2007 but later released without charges.

In February 2012, the replacement of the presidency minister in charge of good governance and privatisation, Jean-Baptiste Gahimbare, and Issa Ngendakumana, both members of FRODEBU-Nyakuri, only three months after a cabinet reshuffle following an evaluation of the first period of government, seems to point to tension within the

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<sup>162</sup> List of properties irregularly allocated, water, environment, land use and urbanisation ministry, August 2010.

<sup>163</sup> This question provoked a lively debate during a plenary session of the National Assembly. Crisis Group interviews, deputies, Bujumbura, October 2011.

<sup>164</sup> In August 2010, the water, environment, land use and urbanisation minister allocated four properties, each one dozens of hectares in size, to the family of Gabriel Ntisezerana, second vice president of the republic at that time. One of these properties was registered in the name of his wife and two others in the name of one of his children, aged twelve. When Olucome and the media revealed this information in August 2011, the press service of Ntisezerana, who had meanwhile become president of the senate, claimed the ministry had made a mistake and denied any acquisition of land in the name of his children. Interview on Radio publique africaine (RPA), 24 August 2011. Gabriel Ntisezerana agreed to return all the properties as proposed by the Olucome's president at a press conference held at the end of September 2011 to assess the organisation's activities during the first half of the year, as reported by Radio Isanganiro, 26 September 2011.

<sup>165</sup> Crisis Group Report, *Burundi: Democracy and Peace at Risk*, op. cit.

<sup>166</sup> Crisis Group interviews, CNDD-FDD deputies, Bujumbura, June 2011.

<sup>167</sup> Crisis Group Report, *Burundi: Democracy and Peace at Risk*, op. cit.

<sup>168</sup> See Crisis Group Briefing, *Burundi: Restarting Political Dialogue*, op. cit.

<sup>169</sup> For more on this political crisis, see *ibid.*

<sup>170</sup> See Crisis Group Report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit.

government about the management of certain cases by this ministry.<sup>171</sup>

These corruption scandals affected the cohesion of the CNDD-FDD by awakening old divisions.<sup>172</sup> Since 2011, revelations made by the former secretary of the party's Council of Wise Men, Manassé Nzobonimpa, have shaken the party, in particular its activists.<sup>173</sup> These allegations were made by an important party figure who played a historic role in the rebellion and occupied various posts in the state apparatus and the CNDD-FDD's governing organs. They also reflect the growing internal disappointment and risk upsetting one of the party base, its former combatants, victims of the misappropriation of funds according to Nzobonimpa's allegations.<sup>174</sup> The current dissent within the CNDD-FDD risks giving birth to another political dissidence, like the UPD that deplores the direction the party is going in<sup>175</sup> while other movements denounce the "economic crimes" and demand an improvement in governance.<sup>176</sup>

#### IV. BEYOND WORDS: THE NEED FOR ACTION

For some years now, Burundi has been among the countries whose governments have prioritised the fight against corruption and institutionalised it by passing laws and creating state structures.<sup>177</sup> But it is also one of the countries that at best stagnate and at worst regress in the international governance rankings. As a diplomat said,<sup>178</sup> the gap is growing between words and actions, between laws and their enforcement and between declared policies and the way institutions behave. Even though it could be improved, the legal and institutional framework is not the problem and the government has reaffirmed its political will by adopting a national strategy for good governance (Stratégie nationale de la bonne gouvernance, SNBG).

The "Burundian problem" is to turn the official good intentions about corruption into reality. However, a lack of realism<sup>179</sup> and the current deadlock (in several areas) mean that the SNBG risks becoming one more name on the long list of paper commitments and political announcements that were never followed up.<sup>180</sup> However, the strategy is based on an accurate assessment and its orientations can only be praised: "Increasing the transparency in the management of public affairs, strengthening the operational capacities of the structures in charge of combating corrup-

<sup>171</sup> Crisis Group interviews, diplomats, Bujumbura, February 2012.

<sup>172</sup> Crisis Group interviews, CNDD-FDD deputies, Bujumbura, October 2011.

<sup>173</sup> Ibid. For more on the revelations of Manassé Nzobonimpa, see Section III.B.

<sup>174</sup> "Interview exclusive de Manassé Nzobonimpa", *Iwacu*, 19 March 2011.

<sup>175</sup> In a long interview, Manassé Nzobonimpa said his fight was "based on the defence of the ideology of the CNDD-FDD, which is now under threat". "Appel au combat politique", *Iwacu*, 3 July 2011.

<sup>176</sup> The first manifesto of a new armed movement, the Forces for the Restoration of Democracy (Forces pour la restauration de la démocratie, FRD), has denounced the government for "protecting the perpetrators of economic crimes". Memorandum n°1 of 22 November 2011 of the FRD-Abanyagihugu, Colonel Pierre Claver Kabigiri Gisuru.

<sup>177</sup> For a comprehensive history of the fight against corruption in Africa, see Stephen E. Riley, "The Political Economy of Anti-Corruption Strategies in Africa", *The European Journal of Development Research*, 10/1 (1998), pp. 129-159. Kenya, Madagascar and Cameroon have similarities with Burundi: they have introduced laws, strategies and institutions to combat corruption without achieving much progress. Like Burundi, the Ravalomanana government in Madagascar created an anti-corruption agency in 2004 with the support of the U.S. Unfortunately, the agency was attached to the presidency. The Cameroonian authorities now want to create a special tribunal against corruption as in Burundi. "Lutte contre la corruption: le gouvernement camerounais propose un tribunal spécial", *La Référence*, 5 December 2011.

<sup>178</sup> The EU ambassador greeted the president's commitment to the fight against corruption but called for "actions, not only words". "Le Burundi invité à plus d'efforts dans la lutte contre la corruption s'il ne veut pas perdre la confiance des bailleurs", *Iwacu*, 7 September 2011. Oluome wrote an eighth letter to remind the president of pending judicial cases. Letter dated 25 January 2012, ref. 14/Oluome/01/2012, Bujumbura.

<sup>179</sup> The SNBG examines the whole field of public governance and proposes over a hundred concrete political, administrative, judicial and economic measures. The chapter on the fight against corruption alone includes twenty measures. See Appendix F.

<sup>180</sup> SNBGs have become widespread in recent years and exist in several countries (Côte d'Ivoire, Mauritania, Chad, etc.) but have not brought any significant improvements in governance.

tion, establishing a coherent and effective legal framework, education”,<sup>181</sup> etc.

The recommendations that follow are made in the context of this strategy. They identify priority measures and add new elements, some of which are already being discussed by Burundian civil society. But the main objective of these recommendations is to create the right conditions to implement these reforms. Civil society should be intellectually and financially equipped and mobilised massively about this problem if new rights are to have an impact;<sup>182</sup> the anti-corruption agencies should be independent to be effective; and donors should demand results, otherwise there will be no genuine reform.

### A. ENSURE INDEPENDENCE OF THE INSTITUTIONAL CHECKS AND BALANCES

The poor performance of the anti-corruption institutions (Court of Auditors, General State Inspectorate, Anti-corruption Court and special brigade etc.) run counter to efforts to improve the business climate in Burundi.<sup>183</sup> Independence of the anti-corruption agencies, one of the five criteria that determine their effectiveness,<sup>184</sup> is the most seriously lacking. Ensuring genuine independence of supervisory and regulatory agencies requires four measures:

- ❑ *The creation of the High Court of Justice as set out in articles 233, 234, 235 and 236 of the constitution.* This court, one of the recommendations of the SNBG, is the

missing key element in the judiciary. It is competent to judge the president of the republic for high treason and the presidents of the national assembly and the senate, as well as the vice presidents of the republic for crimes and offences committed while in office. However, the creation of the court has been regularly postponed.<sup>185</sup>

- ❑ *Normalisation of statutory guarantees for judges.* It is urgent to create the High Court of Justice but it is also essential to ensure that judges have security of tenure and are therefore protected from political pressures and influence. Certain prerogatives and the composition of the Supreme Council of the Judiciary (Conseil supérieur de la magistrature, CSM) must be changed in order to protect judges from the influence of the executive. Its presidency should be entrusted to a senior judge and no longer to the president of the republic assisted by the justice minister. The CSM must also be the main guarantor of the independence of the judiciary, for example, by proposing the appointment of judges and being the ultimate decision-making authority for career management.
- ❑ *The inspection and regulatory agencies must no longer be under the supervision of the executive.*<sup>186</sup> The statute of the General State Inspectorate, the Telecommunications Regulatory and Inspection Agency (Agence de régulation et de contrôle des télécommunications) and the Public Tenders Regulatory Authority (Autorité de régulation des marchés publics) must be amended to make these administrative authorities independent, in the same way as the recently created Ombudsman: with a budget voted by Parliament, officials appointed by Parliament according to a public selection procedure, statutory guarantees, the duty to remain politically neutral and report to Parliament, etc.<sup>187</sup>
- ❑ *Officials in these agencies must be honest and politically neutral.* Holding management positions in these agencies should be incompatible with present or past membership of a political party and should require a declaration of assets.<sup>188</sup> It must be systematic and apply to both current personnel and others recruited in the future. As those who are responsible for enforcing the law are best placed to get round it, a body of inspectors above all suspicion is necessary.

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<sup>181</sup> See the Chapter “Axes stratégiques et actions prioritaires pour une lutte efficace contre la corruption”, “Stratégie nationale de bonne gouvernance et de lutte contre la corruption”, op.cit., pp. 56-59.

<sup>182</sup> Crisis Group interview, Parcem’s president, Bujumbura, August 2011.

<sup>183</sup> Burundi was ranked 181st in the World Bank’s report “Doing business 2011”, which provides an annual assessment of the business climate in 183 countries. Following the official presentation of this document to the Burundian authorities, the latter began to introduce a series of measures reducing and improving procedures aiming to “make Burundi more attractive to national and foreign investors”. “Les grandes réalisations du gouvernement en matière de gouvernance économique”, second vice presidency, April 2011. Several legal and regulatory reforms had already been introduced to this end: a new investment code was introduced in 2008, a new land code, the law on bankruptcy and company agreements with creditors, etc. These changes brought Burundi to the 169th rank in “Doing business 2012”. This progress was especially thanks to a new code on private and public companies promulgated on 31 May 2011. These reforms have yet to be enforced.

<sup>184</sup> These criteria are political support, adequate resources, professional skills and honesty, the clarity and legal force of the mandate and independence. “Fighting Corruption and Restoring Accountability in Burundi”, USAID, Bujumbura, May 2006.

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<sup>185</sup> See “Les intouchables de Ntakaburimwo”, *Iwacu*, 6 July 2011.

<sup>186</sup> Already featured in Crisis Group Report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit., this recommendation is today more relevant than ever.

<sup>187</sup> On an independent administrative authority, see Roland Drago, “Pour ou contre les autorités administratives indépendantes”, Académie des sciences politiques et morales, 29 October 2007.

<sup>188</sup> Article 146 of the constitution provides for public officials to declare their assets.

In addition, as recommended in Crisis Group's previous report,<sup>189</sup> the anti-corruption law should be amended to strengthen its provisions regarding the declaration of assets and illicit enrichment,<sup>190</sup> for example, by including sanctions against those who contravene the requirement to make a declaration and mechanisms to freeze, seize and recover illegally acquired goods and assets. This law should also define illicit enrichment exactly and clarify the circumstances in which public officials or elected representatives should justify their assets and lifestyle. Its scope should be extended, through a special chamber for example, to include ministers and parliamentarians who benefit from jurisdictional privileges. This law should also include a procedure for anonymous denunciation by informants and their judicial protection.<sup>191</sup> Similarly, the government should institutionalise cooperation mechanisms between these inspection and regulatory agencies and with financial administration agencies, including the OBR.

## B. IMPROVE GOVERNANCE AND TRANSPARENCY

In a post-conflict situation, reconstruction and development require a revitalised state. In Burundi, as in most post-conflict countries, revitalisation is inspired by "new public management" principles, which have led to a reworking of fundamental texts on public administration. However, this has resulted in no fundamental changes in practice. For example, the authorities completely ignore the law that distinguishes between political and technical posts.<sup>192</sup>

In order to improve governance and transparency in public administration, the government must respect the letter and spirit of the laws regulating the status of public officials. Given the over-representation of members of the presidential party in certain technical posts (director-gener-

als in the ministries), it must depoliticise senior civil service posts and define more rigorously the requirements for senior officials. It should also ensure a declaration of assets is submitted by senior officials, managers of state financial services (OBR, public tenders, agencies in charge of privatisation, etc.) and members of the government (in addition to the president).<sup>193</sup> These declarations should be published, verified by an inter-services group composed of members of the civil service ministry and representatives of anti-corruption agencies, and sanctions should apply in the event of dishonest declarations or a refusal to make such a declaration.

The question of access to civil service posts is very sensitive in a country with high youth unemployment and decades of ethnic monopolisation of the state apparatus. Here as well, strict observance of the law must prevail.<sup>194</sup> A civil service ministry recruitment commission must be established with the participation of civil society and recruitment and appeal procedures must be widely publicised. In an attempt to depoliticise access to employment, its members should not be affiliated to political parties and the commission must have a diverse composition in terms of gender, ethnicity and region. Finally, candidates for employment must declare whether they are members of any political party.

New legislation on public procurement has not significantly changed what happens in practice on this matter. It is often violated or ignored in spite of the many denunciations by the media and anti-corruption organisations. In addition, some provisions of this law need to be amended. For example, the government should include civil society representatives in the procurement units that decide on public tenders, and limit by decree the categories of public contracts of a secret nature incompatible with any publicity or competition. It is also indispensable to change the composition of the commission in charge of derogations for the awarding of contracts by mutual agreement or of a secret nature, and entrust the chairmanship to a senior judge.

Given that the mineral and hydrocarbon resources sector is at the development stage and is internationally considered to be highly vulnerable to corruption, the government should quickly adopt a new legal framework based on international good practice<sup>195</sup> and give a lot of respon-

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<sup>189</sup> Crisis Group report, *Burundi: From Electoral Boycott to Political Impasse*, op. cit., p. 19.

<sup>190</sup> Article 58 of the anti-corruption law, on illicit enrichment, states: "Any person occupying public office, responsible for a public service mission or occupying elective office shall be punished by a term of imprisonment of between three and five years and a fine that can rise to double the value of any asset judged by a court to have been acquired illegally".

<sup>191</sup> For some years now and in response to the problem of corruption, this kind of legislation has been introduced in other countries (Public Interest Disclosure Act, 1998, United Kingdom; Whistle-blower Protection Act, 1989, United States; Protected Disclosures Act, 2010, South Africa) and also at the international level (articles 32 and 33 of the United Nations Convention against Corruption and article 5 of the African Union Convention Preventing and Combating Corruption).

<sup>192</sup> Law N°1/09 of 17 March 2005 distinguishing political and technical posts.

<sup>193</sup> The head of state did so in 2005 and 2010.

<sup>194</sup> At a press conference held on 14 February 2012 by civil society organisations to demand the release of Parcem's president and greater transparency in public service recruitment, especially in the justice ministry, they also called for "observance of the civil service statute that regulates the recruitment and management of civil service personnel". Radio Isanganiro, 14 February 2012.

<sup>195</sup> To successfully complete its mining reform, the Burundian parliament could refer to a recent African Union document,

sibility to civil society. The mining code currently being drafted should provide for the creation of an inter-ministerial commission of experts to analyse all requests for licences and establish objective and rigorous criteria for the selection of companies (for example, observance of environmental standards and an obligation to promote local development) and contractual, commercial and financial transparency (publication of contracts, due diligence procedures and the certification of minerals). Burundi must join the Extractive Industries Transparency Initiative (EITI), which requires the publication of payments made by companies and received by states.<sup>196</sup>

In order to further strengthen transparency in the public administration, the government should pass a law on public access to administrative documents and publish on the internet financial details of public companies (budget adopted and implemented by ministries and agencies, budget amendments, other public accounts and public contracts, etc.).

### C. CREATE A MASS MOVEMENT AGAINST CORRUPTION

In Burundi, civil society organisations, rather than the anti-corruption institutions, are conducting the fight against corruption, particularly Olucome, which has denounced almost all of the corruption cases made public, and, to a lesser extent, Parcem, which focuses on advocacy to improve economic governance. Prioritising public denunciation, these organisations are behind the revelation of most “cases” and their work must continue to receive donors’ support and media attention. However, these organisations mainly represent an urban elite that is more or less at odds with the present government, while the fight against corruption requires a mass movement capable of exercising strong pressure on the authorities.<sup>197</sup>

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which presents different ways of increasing the value of the mining sector and to the results of discussion at the AU/EU group of experts on the governance of natural resources. “Africa Mining Vision”, African Union, Addis Ababa, February 2009 and “Outcome of the Africa/EU working group on governance of natural resources, including in conflict and post-conflict situations”, Brussels, 27-28 September 2011.

<sup>196</sup> See the Initiative’s website, <http://eiti.org/fr>.

<sup>197</sup> Analysis of the campaigns to combat corruption shows that they have more chance of success when they are endorsed by a mass movement. See Stephen E. Riley, op. cit. In Liberia, civil society was behind several initiatives to combat corruption, notably the Governance and Economic Management Program adopted by the government in October 2005. See Crisis Group Africa Report N°87, *Liberia and Sierra Leone: Rebuilding Failed States*, 8 December 2004.

The creation of an anti-corruption forum, as provided for in the SNBG, would be a first step toward creating a mass movement. Such a forum would bring together organisations and companies that, along with public service users, are the main victims of corruption. It would also raise the issue in rural areas, which also suffer from it, particularly with regard to land conflicts. This new organ could coordinate efforts to monitor procurement contracts, influence peddling, corruption in land affairs and the illicit enrichment of politicians and public officials. The forum could develop a database on corruption and organise awareness raising campaigns. Universities should participate actively, carry out research and take action on the issue of corruption and its impact on the public finances and use its skills for the public good. Academic research on this topic would help guide discussions in the forum.<sup>198</sup>

With a combination of skills and public campaigns, the forum could also conduct social audits and independent assessments of the “national integrity system”,<sup>199</sup> government efforts to fight corruption, the business climate and privatisation. Social audits are evaluations of public programs and services, conducted directly by beneficiaries at the grassroots. They measure public satisfaction and identify wasteful use of public funds.<sup>200</sup> Assessing the national integrity system would provide suggestions to improve the anti-corruption framework.

The new Federal Chamber of Commerce and Industry (Chambre fédérale de commerce et d’industrie, CFCI) and other business organisations should periodically evaluate the business climate<sup>201</sup> using an evaluation grid to assess observance of the new legal and regulatory framework and publicise it widely. Moreover, in order to promote greater transparency of the privatisation process and ensure it abides strictly by the law, the evaluation scheduled this

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<sup>198</sup> For instance, Burundian universities could find inspiration in India’s Accountability Initiative, which developed a project to evaluate government social programs in order to verify whether public funds were being used properly.

<sup>199</sup> Transparency International has developed a methodology called National Integrity System to assess the laws, agencies and processes that promote integrity, accountability and transparency in any given country. [www.transparency.ch/fr/aktivitaeten/SNI/index.php?navanchor=2210005](http://www.transparency.ch/fr/aktivitaeten/SNI/index.php?navanchor=2210005).

<sup>200</sup> On social audits, see “Social Audit Toolkit”, Public Affairs Centre, Bangalore (2010); Y. Aiyar, B. Posani, A. Patnaik, M. Devasher, “Institutionalizing Social Accountability: Considerations for Policy”, Accountability Initiative Policy Paper no. 2, 2 October 2009; and “Social audits in India, a slow but sure way to fight corruption”, *The Guardian*, 13 January 2012.

<sup>201</sup> The CFCI intends to create a service point for the business community to express grievances about economic reforms. Crisis Group interview, CFCI, Bujumbura, January 2012.



year by a local independent organisation<sup>202</sup> should be shared and discussed in the forum and prepare the planned privatisation of major public companies, such as Sosumo and Onatel.

#### **D. DONORS' RESPONSIBILITY TO ENSURE AID'S EFFECTIVENESS**

Like Burundian civil society, donors should help create the conditions for an effective fight against corruption. The issue is not about increasing or reducing aid to this fragile country but ensuring aid is effective and not wasted by the current deterioration in public governance. Moreover, the SNBG requires their participation in several respects.

The recent positions taken by Western donors (the most important in terms of aid volume) are welcome: implementation of Article 8 of the Cotonou Agreement, support for civil society organisations (particularly Olucome), bilateral pressure, etc. They should continue to support civil society's efforts and prioritise implementation of the SNBG.

Donor aid should be directed to civil society and support its efforts to fight corruption. Donors should especially support the education of associations, media, lawyers and private structures about public finances, public procurement and the relevant laws. They should also support an exchange of experiences between civil societies in Burundi and in other countries that face the same problem.

The funding and implementation of the SNBG should be on the agenda of the dialogue between donors, notably between the EU and Burundi regarding Article 8 of the Cotonou Agreement, and the SNBG should be considered "a governance and development contract" between the EU and Burundi. To maintain consistency, donors must link budgetary aid to implementation of the above-mentioned measures, the independence of institutional checks and balances and improvements in governance and transparency in public administration. The preparation of the eleventh European Development Fund and discussions about future budgetary support to Burundi represent an opportunity to link budgetary aid to good governance, prioritise governance and request the European Court of Auditors to conduct an assessment of the effectiveness of aid in promoting democratic governance to complement other evaluations underway.<sup>203</sup>

Institutional arrangements to combat corruption should not be supported until guarantees are received about independence and a performance audit has been carried out. Social

audits should also be systematically included in donor development projects in order to allow the population to express its views about how funds are allocated. In the absence of rapid progress, providers of budgetary aid, with the EU being of primary importance, should change the modalities of their aid in accordance with the principles set out in the European Commission's new proposals on budgetary aid.<sup>204</sup>

Finally, donors must ask UNODC to publicise its evaluation on the implementation of the UN Convention against Corruption by the Burundian authorities and they should suspend development projects in which corrupt practices are proved and initiate proceedings.

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<sup>202</sup> Crisis Group interview, Observatory on Government Action, Bujumbura, January 2012.

<sup>203</sup> The European Commission and member states are conducting an evaluation of their support for Burundi.

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<sup>204</sup> While prioritising budgetary aid, the EU specifically links it to governance in recipient countries. A deterioration in governance results in a hardening of conditions and a review of its cooperation with the partner country in question. See "Accroître l'impact de la politique de développement de l'UE: un programme pour le changement" and "La future approche de l'appui budgétaire de l'UE en faveur des pays tiers", Commission communications, 13 October 2011.

## V. CONCLUSION

The corruption crisis is both a national and international problem. National because it threatens the key elements of the peace process: a pact between the elites, access to public and private resources and the cohesion of the political parties. International because it compromises donors' efforts and directly jeopardises prospects for stability and development of the country. Public administration has certainly seen a number of significant reforms and initiatives in recent years, but neopatrimonial habits die hard and did not disappear with the conflict, far from it. Although peace was largely "imposed" from abroad, the same cannot be said of good governance.

The challenge facing Burundi is to turn words into actions. The problem is not about making "good" institutional arrangements and passing "good" laws but inverting the balance of forces hampering good governance and the fight against corruption. The SNBG will be no more than one more incantation to good governance if reform is not accompanied by a genuine reform policy, that is, an alliance of social actors and forces in favour of the change in governance.

**Bujumbura/Nairobi/Brussels, 21 March 2012**

## APPENDIX A

### MAP OF BURUNDI



## APPENDIX B

### THE BURUNDIAN ECONOMY IN FIGURES

Year	2008	2009	2010
Population (millions)	7.9	8.2	8.4
Annual rate of population growth	3 %	2.9 %	2.6 %
Rate of growth in GDP	4.5 %	3.5 %	3.9 %
Inflation rate	24.4 %	10.7 %	6.4 %
Balance of trade	-27 %	-17 %	-22.5 %
Budget deficit	-15.5 %	-16.1 %	-13.4 %
GDP per capita	\$140	\$150	\$170

Source: Government of Burundi, International Monetary Fund, World Bank Group – extract of Economic Reform Support Grant (V)

## APPENDIX C

### POLITICAL AFFILIATIONS OF THE HEADS OF PUBLIC COMPANIES

Company	2001	2006	2012
<b>Banque de la république du Burundi (BRB)</b>	Grégoire Banyiyezako UPRONA Tutsi, Bujumbura Rural	Gabriel Ntisezerana CNDD-FDD Hutu, Bubanza	Gaspard Sindayigaya FRODEBU <sup>205</sup> Hutu, Rutana
<b>Banque commerciale du Burundi (Bancobu)</b>	Libère Ndabakwaje UPRONA Tutsi, Bujumbura Rural	–	Jean Ciza CNDD-FDD Hutu, Kayanza
<b>Banque nationale pour le développement économique (BNDE)</b>	Gaspard Sindayigaya FRODEBU Hutu, Rutana	Jean Ciza CNDD-FDD Hutu, Kayanza	Donatien Nijimbere CNDD-FDD Hutu, Ruyigi
<b>Société d'assurances du Burundi (Socabu)</b>	Astère Girukwigomba UPRONA Tutsi, Gitega	Eloie Bigerinyange CNDD-FDD Tutsi, Muramvya	Onésime Nduwimana CNDD-FDD Hutu, Gitega
<b>Office du thé du Burundi (OTB)</b>	Salvator Nimubona UPRONA Tutsi, Bururi	Alexis Nzohabonimana CNDD-FDD Hutu, Muramvya	Alexis Nzohabonimana CNDD-FDD Hutu, Muramvya
<b>Société sucrière du Moso (Sosumo)</b>	Numérien Barutwanayo UPRONA Tutsi, Ruyigi	Alexis Ntaconzoba CNDD-FDD Tutsi, Rutana	Audace Bukuru CNDD-FDD Tutsi, Makamba
<b>Office national des télécommunications (Onatel)</b>	Augustin Ndabihore UPRONA Tutsi, Mwaro	Alfred Ndarigumije CNDD-FDD Hutu, Muramvya/ Bujumbura Mairie	Donatien Ndayishimiye CNDD-FDD Hutu, Bujumbura Mairie
<b>Régie de distribution de l'eau et de l'électricité (Regideso)</b>	Philippe Niyongabo UPRONA Tutsi, Bururi	Wilson Itangishaka CNDD-FDD Tutsi, Bujumbura Mairie	Pascal Ndayishimiye CNDD-FDD Hutu, Kayanza

<sup>205</sup> He has not officially resigned from FRODEBU but he no longer participates in its activities. He is President Nkurunziza's brother-in-law.

Company	2001	2006	2012
<b>Institut national de sécurité sociale (INSS)</b>	Major Léonce Ndiwokubwayo FAB <sup>206</sup> Tutsi, Bururi	Nicéphore Ndimurukundo PIT Tutsi, Bujumbura Rural	Major Frédéric Ntimarubusa FDN <sup>207</sup> Tutsi, Ruyigi
<b>Agence de régulation et de contrôle des télécommunications (ARCT)</b>	Colonel Nestor Misigaro FAB Tutsi, Makamba	Joseph Nsengana CNDD-FDD Hutu, Bujumbura Mairie	Salvator Nizigiyimana CNDD-FDD Hutu, Muramvya
<b>Société de déparçage et de conditionnement du café (Sodeco)</b>	Epitace Bayaganakandi MRC Tutsi, Mwaro	Cyrille Ndenzako UPRONA Tutsi, Mwaro	Vital Nzobonimpa CNDD-FDD Hutu, Gitega
<b>Société régionale de développement de l'Imbo (SRDI)</b>	Damien Fyiroko UPRONA Tutsi, Rutana	Venant Niyongere CNDD-FDD Tutsi, Bubanza	Zacharie Sakubu CNDD-FDD Hutu, Muramvya
<b>Société burundaise de gestion aéroportuaire (Sobugea)</b>	Adrien Sibomana UPRONA Hutu, Muramvya	Henri Lepage CNDD-FDD Hutu, Bujumbura Mairie	Elias Buregure CNDD-FDD Tutsi, Bujumbura Mairie
<b>Air Burundi</b>	Colonel Evariste Gatogato FAB Tutsi, Muyinga	Salvator Nizigiyimana CNDD- FDD Hutu, Muramvya	Melchior Nahimana CNDD-FDD Hutu, Ngozi
<b>Encadrement des constructions sociales et aménagement de terrains (Ecosat)</b>	Chantal Baringuvu UPRONA Tutsi, Bujumbura Rural	Chantal Baringuvu UPRONA Tutsi, Bujumbura Rural	Joseph Sabiyumva CNDD-FDD Tutsi, Bururi
<b>Fonds de promotion de l'habitat urbain (FPHU)</b>	Fidèle Niyungeko UPRONA Tutsi, Bururi	Audace Bukuru CNDD-FDD Tutsi, Makamba	Aloys Ntakirutimana CNDD-FDD Tutsi, Cibitoke

<sup>206</sup> Burundian Armed Forces (Forces armées burundaises), whose members are supposed to be politically neutral according to the constitution.

<sup>207</sup> National Defence Forces (Forces de défense nationale), whose members are supposed to be politically neutral according to the constitution.

## APPENDIX D

### LIST OF BANK CHIEF EXECUTIVES AND CHAIRS OF BOARDS OF DIRECTORS

Bank	Status	Chief executive	Chairs of boards of directors
<b>Banque commerciale du Burundi (Bancobu)</b>	Mixed capital, mainly private	Jean Ciza (CNDD-FDD)	Léa Ingabire (CNDD-FDD)
<b>Banque burundaise pour le commerce et l'investissement (BBCI)</b>	Mixed capital, mainly private	Jean-Marie Blair (CNDD-FDD)	Herman Ndayisaba
<b>Banque de crédit du Burundi (BCB)</b>	Mixed capital, mainly private	Tharcisse Rusumo (CNDD-FDD)	Rose Katariho (CNDD-FDD)
<b>Banque de gestion et de financement (BGF)</b>	Private, mainly Burundian capital	Cyrille Sigejeje (RADDES)	Trinitas Girukwishaka
<b>Diamond Trust Bank (DTB)</b>	Private. Belongs 100 per cent to DTB Kenya	Ida Mabushi	Shafiq Jiwani (economic actor)
<b>Ecobank</b>	Private subsidiary of the international West African group Ecobank	Stéphane Doukoure (Ivorian banker who has been working for Ecobank for a while)	Isaac Budabuda
<b>Finbank</b>	Private subsidiary of the Nigerian group Access Bank	Jean-Marie Miravumba (Rwandan citizen, previously employed by the Access Bank group)	Okey Mwuke (Access Bank group)
<b>Interbank Burundi (IBB)</b>	Private capital of Burundians and foreigners working in Burundi	Callixte Mutabazi	Georges Koukoulis (Greek economic actor, shareholder in IBB)

## APPENDIX E

### LIST OF PRIVATISED OR LEASED COMPANIES

Enterprises	Buyers	Comments
<b>Abattoir public de Bujumbura</b>	Société de gestion de l'abattoir de Bujumbura (Sogeab)	The company is partly formed by former managers and workers at the abattoir when it was public.
<b>Centre touristique de Resha</b>	MKM Comesa Ltd represented by Silas Majyambere, Rwandan Hutu businessman	This tourist centre has been leased but the contract and agreement between the Tourist Office of Burundi (OTB) and MKM COMESA Ltd is the subject of a disagreement.
<b>Cercle nautique de Bujumbura</b>	Ibid	Ibid
<b>Complexe textile du Burundi (Cotebu)</b>	Afri-textile de Maurice	The company has been leased for a 30-year period.
<b>Office national pharmaceutique (Onapha)</b>	Société industrielle pharmaceutique du Burundi (SIPHAR)	The successful bidder, a group of Indian origin, is still negotiating with the government.
<b>Société hôtelière touristique du Burundi (SHTB)</b>	–	The hotel was leased to the international hotel chain Serena but the company subsequently withdrew.
<b>Stations de lavage de café (13)</b>	Webcor, a Swiss transnational company	
<b>Union commerciale d'assurances et de réassurance (Ucar)</b>	Nkamicaniye, Tutsi businessman	The state's shares in UCAR were initially bought by Nkamicaniye, who resold them to Aloys Ntakarutimana, a Tutsi in the CNDD-FDD.



## APPENDIX F

### ANTI-CORRUPTION MEASURES IN THE NATIONAL STRATEGY FOR GOOD GOVERNANCE

#### Legal framework

1. Audit international legislation.
2. Identify other laws necessary to prevent repression.
3. Audit Burundi's legal arsenal.

#### Structures responsible for combating corruption

4. Audit institutions and their capacity.
5. Improve institutional coordination and cooperation.
6. Strengthen the institutional capacities.

#### Recovery of misappropriated or unlawfully acquired goods and assets

7. Monitor cases referred to the judiciary.
8. Put in place mechanisms to freeze, seize and recover assets and goods misappropriated through corruption.
9. Strengthen international cooperation regarding recovery of assets.

#### Management of public procurement

10. Publish tenders, including on government websites.
11. Plan all the tenders to be offered during the course of the year.
12. Publish systems and procedures.
13. Reduce the discretionary powers of officials.
14. Systematise and strengthen the procurement units in charge of tenders.
15. Systematise the rendering of accounts.
16. Establish minimum standards of conduct for goods and services providers.
17. Provide for declarations of conflicts of interest by administration officials in charge of public procurement and the negotiation of contracts.
18. Strengthen the capacity of officials.
19. Check the qualifications and previous employment of candidates for senior and sensitive posts.
20. Define profiles for the appointment of senior officials.
21. Prepare a code of ethics.
22. Produce annual audit reports on ethics in the administration.

23. Use sanctions as a deterrent against non-observance of the code of ethics.

#### Partnership with civil society and the private sector

24. Promote a national anti-corruption forum and link it with the implementation of the national strategy.
25. Promote the creation of local good governance committees and a culture of denunciation of corruption.
26. Establish a partnership with the private sector in order to discourage corrupt practices.
27. Encourage the mobilisation and involvement of trade unions in the promotion of ethical conduct and in the fight against corruption.
28. Conduct a national media information and awareness raising campaign about administrative procedures, the rights and duties of citizens, corruption and good governance.
29. Translate anti-corruption laws into Kirundi and publicise them widely.

## APPENDIX G

### ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Undersecretary of State and Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters is in Brussels, and the organisation has offices or representations in 34 locations: Abuja, Bangkok, Beijing, Beirut, Bishkek, Bogotá, Bujumbura, Cairo, Dakar, Damascus, Dubai, Gaza, Guatemala City, Islamabad, Istanbul, Jakarta, Jerusalem, Johannesburg, Kabul, Kathmandu, London, Moscow, Nairobi, New York, Port-au-Prince, Pristina, Rabat, Sanaa, Sarajevo, Seoul, Tbilisi, Tripoli, Tunis and Washington DC. Crisis Group currently covers some 70 areas of actual or potential conflict across four continents. In Africa, this includes, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Sierra Leone, Somalia, South Sudan, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Malaysia, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in

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**March 2012**

## APPENDIX H

### CRISIS GROUP REPORTS AND BRIEFINGS ON AFRICA SINCE 2009

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- Chad: Powder Keg in the East*, Africa Report N°149, 15 April 2009 (also available in French).
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