

Rwanda

Organic Law determining the Organisation, Functioning and Jurisdiction of the Commercial Courts

Organic Law 6 of 2012

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Commenced on 11 May 2012

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We, KAGAME Paul,

President of the Republic;

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

THE PARLIAMENT:

The Chamber of Deputies, in its session of 01 August 2012;

The Senate, in its session of 25 July 2012;

Pursuant to the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date, especially in Articles 62, 66, 67, 88, 89, 90, 92, 93, 95, 108, 113, 155 bis, 156 and 201;

Pursuant to the East African Community customs management Act, 2004 as modified and complemented to date, especially in Section 252 (6);

Pursuant to Organic Law n° 51/2008 of 09/09/2008 determining the organisation, functioning and jurisdiction of courts as modified and complemented to date;

Having reviewed Organic Law n° 59/2007 of 16/12/2007 establishing Commercial Courts and determining their organisation, functioning and jurisdiction;

Having reviewed Law n° 50/2007 of 18/09/2007 providing for the establishment, organisation and functioning of Cooperative Organizations in Rwanda as modified and complemented to date, especially in Article 117 bis;

ADOPTS:

Chapter One

General provisions

Article One – Purpose of this Organic Law

This Organic Law determines the organisation, functioning and jurisdiction of Commercial Courts.

Article 2 – Commercial matters

For the purpose of this Organic Law, “commercial matters” shall mean commercial, financial, fiscal and other related matters in connection with:

- 1° disputes arising from commercial contracts or commercial activities between individuals or business entities;

- 2° disputes arising from the use of negotiable instruments;
- 3° disputes arising from contracts between individuals and financial institutions;
- 4° disputes related to liquidation, dissolution and recovery of business firms facing bankruptcy;
- 5° disputes related to insurance with the exception of those related to accident compensation claimed from insurance companies by those who have no contract with such companies;
- 6° disputes related to taxes and duties;
- 7° disputes related to the transportation of persons and goods;
- 8° any dispute that may arise between persons who own or manage registered entities and other business companies, and these are:
 - a) members of the Board of Directors;
 - b) Directors;
 - c) shareholders;
 - d) auditors;
 - e) liquidators of a dissolved firm;
 - f) administrators of the property of an insolvent firm;
- 9° cases related to insolvency;
- 10° disputes related to intellectual property, including trademarks and names;
- 11° disputes related to registration and deregistration of business people from the commercial registers;
- 12° disputes related to the appointment or dismissal of auditors of firms;
- 13° disputes related to business competition and consumer protection;
- 14° business-related issues arising in cooperative organizations;
- 15° any dispute arising in the preparation and execution of administrative contracts between public organs and the private sector on business and financial affairs.

Chapter II

Organization and jurisdiction of Commercial Courts

Section One – Organization of Commercial Courts

Article 3 – Commercial Courts

Courts which have jurisdiction to hear commercial cases shall be the Commercial High Court and Commercial Courts.

Commercial Courts shall be the following:

- 1° Nyarugenge Commercial Court;
- 2° Huye Commercial Court;
- 3° Musanze Commercial Court.

Article 4 – Composition of a Commercial Court

Each Commercial Court shall be comprised of at least three (3) judges including the President and the Vice President, appointed by the President of the Supreme Court on approval by the High Council of the Judiciary.

It shall also comprise of registrars and other necessary personnel.

Article 5 – Responsibilities of the President of the Commercial Court

The President of the Commercial Court shall be responsible for:

- 1° organizing activities and ensuring the proper functioning of the court under his/her responsibility;
- 2° taking necessary measures to expedite the adjudication of cases while avoiding anything that may lead to delays in adjudicating cases;
- 3° organizing and determining the functioning of the court;
- 4° monitoring of performance and conduct of judges and staff of the court under his/her responsibility.

Article 6 – Composition of the Commercial High Court

The Commercial High Court shall be comprised of at least five (5) judges including the President and the Vice President.

The President and the Vice President shall be appointed by a Presidential Order after approval by the Senate. Other Judges shall be appointed by the President of the Supreme Court on approval by the High Council of the Judiciary.

The Commercial High Court shall also comprise of registrars and other necessary personnel.

Article 7 – Responsibilities of the President of the Commercial High Court

The President of the Commercial High Court shall be responsible for:

- 1° organizing activities and ensuring the proper functioning of the Court under his/her responsibility;
- 2° taking necessary measures to expedite the adjudication of cases while avoiding anything that may lead to delays in adjudicating cases;
- 3° organizing and determining the functioning of the Court under his/her responsibility;
- 4° monitoring of performance and conduct of judges and staff of all commercial courts.

Article 8 – Authorizing judges to hear cases in courts other than those in which they work

The President of the Supreme Court may issue an ordinance in the interest of service, authorizing for a period not exceeding six (6) months, judges of Commercial Courts to hear cases of the Commercial High Court.

The President of the Commercial High Court may issue an ordinance, in the interest of service, authorizing for a period not exceeding six (6) months judges of Commercial Courts to hear cases of any other Commercial Courts, located in other jurisdiction.

The decisions provided in this Article may also apply to court registrars.

Article 9 – Bench of Commercial Courts and the Commercial High Court

In the first instance and appeal level, the Commercial Courts and the Commercial High Court shall hear cases, while composed of one (1) judge assisted by a court registrar.

However, the President of the Commercial High Court may at his/her own initiative designate, in appeal cases, a bench of three (3) or more judges assisted by a court registrar depending on his/her assessment of the complexity and nature of the case.

Article 10 – Appointment of judges of Commercial Courts

The appointment of the judges of Commercial Courts and the Statute which governs them shall be determined by the Law governing the Statute of Judges and Judicial personnel.

Section 2 – Jurisdiction of Commercial Courts

Subsection One: Territorial jurisdiction

Article 11 – Headquarters and territorial jurisdiction of Commercial Courts and the Commercial High Court

The headquarters of the Commercial High Court shall be located in the City of Kigali.

Its territorial jurisdiction extends throughout the national territory.

The headquarters of Nyarugenge Commercial Court shall be located in the City of Kigali.

The headquarters of Huye Commercial Court shall be located in Huye District.

The headquarters of Musanze Commercial Court shall be located in Musanze District.

The territorial jurisdiction of Commercial Courts is in the annex of this Organic Law.

The President of the Supreme Court may, at the request of the High Council of the Judiciary, put in place chambers of the Commercial High Court and those of Commercial Courts and determine the location of their respective headquarters.

Subsection 2 – Subject matter jurisdiction

Article 12 – Subject matter jurisdiction of Commercial Courts

Commercial Courts shall hear in the first instance all commercial, financial and fiscal cases and other correlated matters as described in Article 2 of this Organic Law.

Commercial Courts shall hear in the first instance tax cases referred to in Section 252 (6) of the East African Community Customs Management Act.

Commercial Courts shall also hear in the first instance, cases petitioning for cancellation of the administrative decisions taken at the ultimate instance about fiscal matters and public procurement.

Article 13 – Subject matter jurisdiction of the Commercial High Court

The Commercial High Court shall hear in the first instance, complaints against decisions and judgements rendered by Foreign Courts on commercial, financial and fiscal cases which require the exequatur on the Rwandan territory.

The examination of such judgement shall be conducted by considering:

- 1° whether the foreign judgment does not contradict public order and basic legal tenets of Rwandan public laws;
- 2° whether the case was finally heard and determined in accordance with the laws of the country in which the judgement was rendered;
- 3° whether a copy of the judgment is by all means authentic in accordance with laws of the Country in which the judgement was rendered;
- 4° whether the right of defence was respected.

The Commercial High Court shall have appellate jurisdiction in the following:

- 1° cases heard in the first instance by Commercial Courts;
- 2° decisions rendered by arbitrators.

Article 14 – Criteria for determining subject matter jurisdiction of Courts

In commercial matters, the subject matter jurisdiction of Courts shall be determined by the nature of the claim.

Article 15 – Provisions of public order

In commercial matters, unless the law provides otherwise, only the rules relating to subject matter jurisdiction shall be construed to be of public order.

Chapter III Miscellaneous, transitional and final provisions

Article 16 – Other applicable provisions

For matters which are not provided in this Organic Law, the provisions of the Organic Law determining the organization, functioning and jurisdiction of courts as modified and complemented to date shall apply.

However, only Commercial Courts shall have jurisdiction to hear correlated pending commercial cases initially filed in other different courts.

Article 17 – Commercial cases pending before Courts

Commercial, financial and fiscal cases and those related to administrative contracts on business and financial matters which are still pending before the High Court and not yet adjudicated, shall be transferred to Commercial Courts in accordance with the jurisdiction of Commercial Courts provided for by this Organic Law.

Commercial, financial and fiscal cases which are still pending before the Commercial High Court and not yet adjudicated shall be transferred to Commercial Courts in accordance with the jurisdiction of Commercial Courts provided for by this Organic Law.

However, the Commercial High Court shall carry on with court proceedings for cases mentioned in Paragraph 2 of this Article for which a preliminary hearing has started by the same Court.

Article 18 – Drafting, consideration and adoption of this Organic Law

This Organic Law was drafted, considered and adopted in Kinyarwanda.

Article 19 – Repealing provision

The Organic Law n° 59/2007 of 16/12/2007 establishing Commercial Courts and determining their organization, functioning and jurisdiction and all other prior legal provisions contrary to this Organic Law are hereby repealed.

Article 20 – Commencement

This Organic Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.