REPUBLIC OF BURUNDI

OFFICE OF THE PRESIDENT

ACT No. 1/12 OF 18 APRIL 2006 PROVIDING MEASURES FOR PREVENTION AND REPRESSION OF CORRUPTION AND RELATED OFFENCES

THE PRESIDENT OF THE REPUBLIC,

Pursuant to the Constitution of the Republic of Burundi,

Pursuant to Act No. 01/015 of 20 July 1999 on the reform of the Criminal Procedure Code;

Pursuant to Act No. 1/002 of 31 March 2004 on the formation, missions, organisation and operation of the Court of Audit,

Pursuant to Act No. 1/02 of 18 January 2005 on the Ratification by the Republic of Burundi of the African Union Convention on Preventing and Combating Corruption

Pursuant to Act No. 1/03 of 18 January 2005 on the Ratification by the Republic of Burundi of the United Nations Convention against Corruption,

Pursuant to Law No. 1/07 of 25 February 2005 governing the Supreme Court;

Pursuant to Act No. 01/08 of 17 March 2005 on the Organisation of the Judiciary;

Having reviewed articles 295 to 303 of the Decree-Law No. 1/6 of 4 April 1981 reforming the Penal Code;

The Council of Ministers having deliberated;

The National Assembly and the Senate having adopted,

The Constitutional Court having declared the Law in conformity with the

Constitution of the Republic of Burundi in its RCCB ruling 170 of 14 April 2006;

ENACTS:

PART I: PRELIMINARY

Article 1:

The purpose of this Act is to prevent and punish corruption and related offences committed in public and private service bodies and non-governmental organisations.

Article 2:

In this Act, unless the context otherwise requires:

a) «Public service» means any service of the State, public administrations, local authorities, public establishments, companies with public or semi-public shareholding, banking bodies, or self-managed units under private law providing a public service

b) «Public official» means any natural person who is in a statutory or contractual situation vis-à-vis a public person, whether he or she is in a managerial, collaborative or executive position, or has a representative function for a public person and whatever his or her rank;

c) «Public officials» means political appointees and executives of public companies and institutions;

d) «Public person» means a legal person governed by public law and a legal person governed by private law with a public mission.

PART II: INSTITUTIONAL FRAMEWORK

Article 3:

For the implementation of the national policy on combating corruption and related offences, an institutional framework is set up, consisting of the following bodies

- A Special Anti-Corruption Unit,
- An anti-corruption Court.

Article 4:

The modalities for the formation and organisation of the Special Anti-Corruption Unit on the one hand and the creation of the Anti-Corruption Court on the other hand will be determined by specific laws

Chapter I: The Special Anti-Corruption Unit

Section 1: Missions and powers of the Special Anti-Corruption Unit

Article 5:

The mission of the Special Anti-Corruption Unit shall be:

1. Exploiting grievances or complaints about suspected corruption or related offences;
2. Refer to the Public Prosecutor's Office, following its investigations, facts likely to constitute corruption or related offences;
3. Cooperate with national, foreign and international bodies in combating corruption and related offences.

Article 6:

Within the framework of the provisions of the Code of Criminal Procedure and without prejudice to the powers vested in the Officers of the Judicial Police, the Officers of the Special Anti-Corruption Unit are vested with the powers granted to the Officers of the Judicial Police.

In this capacity, they are empowered to establish corruption and related offences, to gather evidence, to search for the perpetrators and, if necessary, to take them into custody in accordance with the Code of Criminal Procedure.

Article 7:

In the exercise of his function, the Commissioner General of the Special Anti-Corruption Unit has the power to authorise an officer under his command to conduct investigations and searches.

A written warrant issued by the Public Prosecutor at the Anti-Corruption Court is required for:

1. to access and verify data, documents and files on any medium relating to any public service of the State, any local authority or any public establishment, any company with a public or semi-public shareholding, any banking body, any self-managed consumer, industrial or agricultural production unit or anybody under private law managing a public service
2. enter all public buildings and premises and request any public official and authority, whatever their rank in the hierarchy, to provide any information on the organisation, operation and powers within the service and produce any related documentation;
3. Examine and use the information contained in the asset declarations;
4. inspect the bank accounts and other financial institutions of the suspect, his or her spouse and first-degree relatives, and request the production of any document useful to the investigation. The secret or confidential nature of the documents cannot be invoked;
5. request from any person information about the ownership or possession of property and/or any other information relevant to the investigation, and/or to produce documents in his possession or control.

Article 8:

In addition to cases of flagrante delicto, the officer of the Special Anti-Corruption Unit may carry out a search with a search warrant issued by the Public Prosecutor at the Anti-Corruption Court and must comply with the provisions of the Code of Criminal Procedure. In this context, all papers, documents, objects or substances that may be used as evidence, as well as all values or goods related to acts of corruption and related offences may be seized and sealed.

He may take fingerprints, photographs and generally carry out any procedure he deems useful for the detection of these offences.

Article 9:

The head of the Special Anti-Corruption Unit may apply to the competent court for an order of precautionary seizure to prevent a suspect from disposing of his or her property until the end of the proceedings.

Any misappropriation of such property shall be punishable under the relevant provisions of the Penal Code.

Article 10:

The head of the Special Anti-Corruption Unit may request that any suspect be banned from leaving the country by the competent authorities.

As such, all or part of the travel documents may be confiscated.

Section 2: The obligation to respect confidentiality and secrecy

Article 11:

All staff of the Special Anti-Corruption Unit are required to maintain confidentiality and secrecy in relation to their activities.

Any member of the Special Anti-Corruption Unit who reveals all or part of confidential or secret information shall be punished with imprisonment of three to five years and a fine of two hundred thousand to one million francs.

Former members of the Special Unit are also bound by this obligation. Violation of this obligation constitutes an offence punishable by the penalties set out in the previous paragraph.

Section 3: Protection of whistle-blowers and witnesses

Article 12:

During the investigation, the enquiry and the trial, the competent authority seized of the offences provided for by this law shall take all necessary measures to ensure the protection of the following persons:

1. Persons who have provided information concerning the offences provided for in this law or who have given any assistance or have collaborated with the competent authorities in carrying out investigations or prosecutions;
2. Witnesses for the prosecution or the defence.

Article 13:

Any person who has contributed to the denunciation of the offences provided for in this law, without having taken part in the commission of these offences, shall be entitled to a bonus of:

1. one fifth of the value of the confiscated property of the offender,
2. One hundred thousand to three hundred thousand francs, which are paid by the convicted person if the offence reported has not led to the confiscation of his property.

Section 4: False declarations

Article 14:

Any natural person who makes false written or verbal statements or statements that do not reflect the truth in relation to offences under this law to the Special Anti-Corruption Unit, to a judicial authority or to a public official who has a duty to refer the matter to the said authority or through the press, shall be punished with imprisonment of five to ten years and a fine of five hundred thousand to one million francs.

If the culprit is a legal entity, it will be punished with a fine of five to ten million francs.

Chapter II: The Anti-Corruption Court

Section 1: Organisation.

Article 15:

The Anti-Corruption Court shall be composed of a President, a Vice-President and as many Counsellors and court clerks as necessary.

Article 16:

The Court Seat shall be composed of a President and two Counsellors assisted by a Public Prosecutor and a court clerk.

Article 17:

A Public Prosecutor's Office shall be established at the Anti-Corruption Court, consisting of a Public Prosecutor at the said Court and as many Deputy Public Prosecutors as necessary.

Article 18:

The Magistrates of the Court and those of the General Prosecutor's Office are appointed after approval of the Senate by decree on the proposal of the Minister of Justice from among career Magistrates of great experience, irreproachable morality, unfailing integrity and great professionalism.

Article 19:

The Magistrates of the Court and those of the Public Prosecutor's Office shall be subject to the Statute of the Magistracy in all matters not regulated by the present law.

Article 20:

The President and the Counsellors of the Court take the rank and status applicable respectively to a Vice-President and the Counsellors of the Supreme Court. The Prosecutor General and the Deputy Prosecutors General of the Court shall have the rank and status applicable to a First Deputy Prosecutor General and the Deputy Prosecutors General of the Supreme Court respectively.

Article 21:

Without prejudice to the benefits deriving from the provisions of the preceding article, the Magistrates of the Court and those of the Public Prosecutor's Office shall benefit from a special function allowance inherent to their duties and from other allowances and bonuses, the amounts of which shall be fixed by decree.

Section 2 Jurisdiction

Article 22:

The Anti-Corruption Court shall have exclusive jurisdiction over corruption offences and corruption-related offences under this law.

Article 23:

The judgments rendered by the Anti-Corruption Court are subject to opposition, appeal to the Judicial Chamber of the Supreme Court and cassation before the Supreme Court sitting in all chambers.

They are subject to review in accordance with Article 43 of the Law governing the Supreme Court.

Article 24:

Under the supervision of the Public Prosecutor of the Republic, the Public Prosecutor's Office at the Anti-Corruption Court investigates corruption offences and offences related to corruption against persons who do not benefit from the privilege of jurisdiction provided for in Article 32 of the law governing the Supreme Court and Article 28 of this law, receives the related denunciations, carries out all the investigative acts and refers the case to the Court when it does not decide to close the case.

To this end, it receives, among other things, files from the Special Anti-Corruption Unit, the Court of Auditors or any other public finance control institution, as well as audit reports containing offences provided for by this law.

Article 25

The Public Prosecutor at the Anti-Corruption Court prosecutes cases before the Anti-Corruption Court. He may delegate these functions to the Deputy Prosecutors General of the said Court.

Article 26:

The Public Prosecutor's Office at the Anti-Corruption Court intervenes in the execution of the Court's decisions in accordance with the provisions of Article 133 of the Code of Judicial Organisation and Competence.

Article 27

The General Anti-Corruption Prosecutor's Office coordinates all activities of the Special Anti-Corruption Unit.

Article 28:

The provisions of this law shall apply: to military personnel both in respect of the investigation and prosecution of offences under this law.

The General Officers benefit from the privilege of jurisdiction provided for by article 32 of the law governing the Supreme Court.

PART III: DECLARATION OF WEALTH AND ASSETS

Chapter I. Declaration before the Supreme Court

Article 29:

Within a period not exceeding fifteen days of taking office, the President of the Republic, the Vice-Presidents of the Republic, the members of the

Government, the members of the National Assembly and the Senate are obliged to deposit with the Judicial Chamber of the Supreme Court, a certified sworn statement, exact and sincere, of their wealth and assets as well as those of their spouses and minor children, whether they are owners, users or habitual holders.

A declaration in accordance with the above provisions shall be filed with the same court within one month of the suspension, interruption or termination of their functions.

Article 30

The statement is received by the Judicial Chamber of the Supreme Court in accordance with Article 31 of Act No. 1/07 of 25 February 2005 governing the Supreme Court. The statement is received as confidential.

Article 31

The declaration provided for in the preceding articles shall cover:

1. shares and other financial interests
2. Properties and buildings
3. movable property worth more than two million Burundian francs.

Chapter II: Declaration before other courts

Article 32:

Any public officer or agent who, by virtue of his or her capacity, title or function, falls within one of the categories defined by this chapter, is required to declare his or her assets to the Court of Appeal or the Court of First Instance according to his or her rank in accordance with Articles 17 and 32 of Act No. 1/08 of 17 March 2005 on the Code of Judicial Organisation and Competence.

Article 33:

The following are also subject to the obligation to declare: public agents and representatives with the status of:

a) The person in charge of the said service, namely personal assistants of ministers, the Directors General in the Ministries and the Directors of the Departments, the Municipal Administrators and the Directors General or Directors (according to the title attributed) of public institutions, companies with public participation or mixed economy, banking organisations, self-managed consumer, industrial or agricultural production units, any organisation under private law ensuring the management of a public service;

b) persons responsible for the financial body within the same department, irrespective of the title attached to that capacity (director, deputy director, head of department or office, or other) and the name of that body (directorate, sub-directorate, department or office responsible for financial affairs or administrative and financial affairs);

c) responsible for handling the money and assets of the same department and for recording their movements, whatever the title attached to this capacity (chief accountant, principal accountant, head of the cashier service and accounting department, provincial or municipal accountant, collector or receiver of revenue or expenditure).

Article 34:

Also subject to the reporting obligation in public institutions, companies with public shareholding and semi-public companies are the chairpersons of the collegiate body with administrative powers, regardless of the title attached to this capacity (Chairperson, Chief Executive Officer, or other) and the nature or name of this body (Board of Directors or, alternatively, General Meeting of Shareholders).

Article 35:

The obligation to declare before the competent court also concerns public agents or representatives who personally commit, liquidate or authorise the revenue of a public person.

The same obligation applies to agents or representatives who are personally responsible, or who are members of a collective body, either for expressing an opinion on contracts of any kind awarded by legal persons governed by public law, or for awarding or concluding these contracts, or for supervising or monitoring their execution. This applies in particular to those exercising these functions within the commissions provided for in the General Conditions of Contract applicable to public contracts and those having the status of senior civil servant within the same General Conditions of Contract.

The provisions of the preceding paragraphs shall be of a suppletive nature and shall apply to any public officer or agent, whether or not he is referred to in the other provisions of this chapter by virtue of his title, capacity or function.

Article 36:

An agent or representative mentioned more than once in this Chapter by reason of his capacity, title or function, or by reason of the plurality of his capacities, titles or functions, shall be required to make only one declaration of wealth and assets.

Chapter III: Responsibility of depositories of declarations

Article 36bis:

The staff of the Supreme Court and other courts that receive declarations of assets are obliged to maintain the confidentiality and secrecy of their activities. Any member of the staff of the above-mentioned services who reveals all or part of confidential or secret information shall be punished with imprisonment of three to five years and a fine of two hundred thousand to one million francs.

Former members of staff of these services are also bound by this obligation. Violation of this obligation constitutes an offence punishable by the penalties set out in the previous paragraph.

PART IV: PREVENTION AND REPRESSION OF CORRUPTION AND RELATED OFFENCES

Chapter I: Measures relating to the prevention of corruption and related offences.

Article 37:

The personalities mentioned in Articles 29 and 33 of this law are obliged to make periodic declarations of their assets.

Article 38:

Officials of public services, private institutions and non-governmental organisations have an obligation to establish mechanisms to prevent corruption and related offences.

In particular, public service managers should:

1. have a procedures manual that shows how decisions are made;
2. determine the deadline for decisions and the rules for making them;
3. respect the principles of advertising and competitive tendering provided for in the law on published contracts;
4. have a department of audit;
5. adopt the Staff Code of Conduct;
6. recruit staff through a competitive process on a transparent basis;
7. guarantee and ensure professional ethics;
8. make periodic half-yearly financial statements and reports to the authorised bodies.

Article 39:

Subject to the International Conventions ratified by Burundi, international institutions and organisations working or wishing to work in Burundi must set up mechanisms to prevent corruption and related offences.

Article 40:

All superiors are required, within their departments, to carry out their duty to assess the activities of their subordinates in a transparent manner and to check for corruption and related offences.

It is also required to regularly educate its staff about the dangers of corruption.

Article 41:

Public services, private institutions, non-governmental organisations, institutions and international organisations operating in Burundi must place a suggestion box at the entrance to their offices, in a visible place, for users wishing to report acts qualified as corruption and related offences.

The Special Anti-Corruption Unit provided for in Chapter 1 of part II of this law must also place such a box at the entrance to its offices.

Chapter II: Measures relating to the repression of corruption and related offences

Section 1: Repression of corruption

Subsection 1: Punishment of passive corruption

Article 42:

Any person holding public authority, entrusted with a public service mission or invested with an elective public mandate, who solicits or agrees, without right, directly or indirectly, for his own account or for the account of others, offers, gifts, presents or advantages of any kind in order to carry out or refrain from carrying out an act of his function or mandate or facilitated by his function, mission or mandate, shall be punished with imprisonment of five to ten years and a fine of between one and two times the value of the illicit profit acquired; his or her office or mandate or facilitated by his or her office, mission or mandate.

Article 43:

Any person who has been entrusted with public authority, a public service mission or an elective public mandate, who solicits or accepts, without right, directly or indirectly, for his own account or for the account of another, offers, gifts, presents or advantages of any kind to carry out an unjust act, shall be punished with imprisonment of ten to fifteen years and a fine of up to double the value of the illicit profit acquired.

Article 44:

Without prejudice to the application of other penal provisions, the guilty party shall be punished with imprisonment of fifteen to twenty years and a fine of between one and two times the value of the illicit profit acquired, if he or she has solicited or accepted, without right, directly or indirectly, for his or her own account or for the account of another, offers, gifts, presents or advantages of any kind, in order to commit any offence in the exercise of his or her function, employment or mission, Any judge or arbitrator who is guilty of corruption in a dispute he or she is deciding shall be punished by the same penalties.

The same applies to a member of the Special anti-corruption Unit who allows himself to be corrupted in the course of his duties.

Article 45:

Any agent of the judiciary, any officer of the Public Prosecutor's Office or of the Judicial Police who receives or accepts offers or promises for the purpose of having a decision taken that should not have been taken shall be punished with imprisonment of twelve to fifteen years and a fine of between one and two times the value of the illicit profit acquired.

Article 46:

Any person referred to in Articles 42 to 45 of this law who explicitly or implicitly demands, benefits from, causes to be subjected to acts of a sexual nature or accepts the promise of such acts in order to perform or refrain from performing an act that falls within the scope of his or her responsibilities shall be punished with imprisonment of twelve to fifteen years and a fine of one hundred thousand to five hundred thousand francs,

The penalty shall be increased to fifteen to twenty years' imprisonment and a fine of five hundred thousand to one million francs if the guilty party is a teacher who has committed these acts against his or her pupil or student, regardless of sex.

Article 47:

Any public official or public authority who accepts from a person a gift or any advantage likely to have influenced or to influence the processing of a procedure or a transaction related to the functions shall be punished by a penal servitude of one to three years and a fine of two hundred to five hundred thousand francs.

Subsection 2: Punishment of active corruption

Article 48:

Anyone who, without right, directly or indirectly, offers, promises, gifts or benefits of any kind to obtain from a person in a position of public authority, entrusted with a public service mission or invested with an elective public mandate, that he or she performs or refrains from performing a public service, shall be punished with imprisonment of five to ten years and a fine of between one and two times the value of the illicit profit acquired, offers, promises, gifts, presents or advantages of any kind to obtain from a person who is a representative of public authority, entrusted with a public service mission or invested with an elective public mandate, that he/she performs or refrains from performing an act of his/her function, mission or mandate or facilitated by his/her function or mandate.

The same penalties shall be imposed on anyone who, without right, directly or indirectly, solicits offers, promises, gifts, presents or advantages of any kind from a person holding public authority, entrusted with a public service mission or invested with a public elective mandate, in order to carry out or refrain from carrying out an act referred to in the previous paragraph.

Article 49:

The donor shall be punished by the same penalties.

Section 2: Punishment of offences related to corruption.

Subsection 1: Corruption

Article 50:

Any person who has been entrusted with public authority or a public service mission and who receives, demands or orders the collection of duties or contributions, taxes or fees, fines or security bond, income or interest, of a sum which he or she knows is not due or exceeds what is due, shall be punished with imprisonment of five to twenty years and a fine of between fifty thousand and five hundred thousand francs.

The same penalties shall apply to the fact that the same persons grant, in any form and for any reason whatsoever, an exemption or exemption from duties, contributions, taxes or fees, fines or security bond, income or interest in violation of the legal and regulatory texts, and to deliver public goods free of charge or at a low price.

Subsection 2: Influence-peddling

Article 51:

Any person holding public authority, entrusted with a public service mission or invested with an elective public mandate, who solicits or agrees, without right, directly or indirectly, offers, promises, gifts, presents or advantages of any kind to abuse his real or supposed influence in order to obtain from an authority, or on behalf of another person, shall be punished with imprisonment of five to ten years and a fine of fifty thousand to five hundred thousand francs for his or her own account or for the account of others, offers, promises, gifts, presents or advantages of any kind in order to abuse his or her real or supposed influence with a view to obtaining distinctions, jobs, contracts or any other favourable decision from a public authority or administration.

Article 52:

Anyone who, without right, directly or indirectly, offers, promises, gifts, presents or advantages of any kind in order to obtain from a person who is a representative of the public authority, entrusted with a public service mission or invested with a public elective mandate, that he or she abuse his or her real or supposed influence with a view to obtaining from a public authority or administration distinctions, jobs, contracts or any other favourable decision, shall be punished by the penalties set out in the preceding article.

Article 53:

Anyone who gives in to a person who is a representative of public authority, entrusted with a public service mission or invested with an elective public mandate who' solicits, without right, directly or indirectly, offers, promises, gifts, presents or advantages of any kind to abuse his influence under the conditions referred to in the previous article, shall be punished by the same penalties as those provided for in Article 50.

Article 54:

Any person who, without right, directly or indirectly, solicits or accepts offers, gifts, presents or advantages of any kind in order to abuse his real or supposed influence with a view to obtaining distinctions, jobs, contracts or any other favourable decision from a public authority or administration, shall be punished with imprisonment of three to five years and a fine of fifty thousand to five hundred thousand francs.

The same penalties shall apply to the fact of yielding to the solicitations provided for in the previous paragraph, or of proposing without right, directly or indirectly, offers, promises, gifts, presents or advantages of any kind so that a person abuses his real or supposed influence with a view to obtaining distinctions, jobs, contracts or any other favourable decision from a public authority or administration.

Subsection 3: Embezzlement and misappropriation of property

Article 55:

Any person holding public authority or entrusted with a public service mission, any public accountant, any public depositary or one of his or her subordinates who embezzles, misappropriates or removes a deed or title, public or private funds, effects, documents or titles in lieu thereof, or any other object which has been handed over to him or her by reason of his or her functions or mission, shall be punished with imprisonment of ten to twenty years and a fine of fifty thousand to one million francs.

Article 56:

Where the embezzlement, misappropriation or removal by a third party of the property referred to in the preceding article results from the negligence of a person entrusted with public authority or a public service mission, a public accountant or a public depositary, the latter shall be punished with imprisonment of one to two years and a fine of ten thousand to fifty thousand francs.

Subsection 4: Fraudulent management

Article 57:

Any person holding public authority, entrusted with a public service mission or invested with an elective public mandate, any public accountant, any public depositary or one of his or her subordinates, who commits fraudulent purposes irregularities in the execution of the accounts and budgets of the State for, public administrations, local authorities, public institutions, companies with public shareholding or mixed economy, banking organisations, self-managed consumer, industrial or agricultural production units, any private law body managing a public service, shall be punished with imprisonment of ten to twenty years and a fine of fifty thousand to one million francs.

Prosecution shall be brought against all those who took part in the offence, with knowledge of the non-authenticity of the cash or securities.

Subsection 5: Illicit enrichment

Article 58:

Any person holding public authority, entrusted with a public service mission or invested with a public elective mandate, whose illicit origin has been established by a judicial decision, shall be punished with imprisonment of three to five years and a fine of up to double the value of the property.

Subsection 6: Favouritism

Article 59:

Any person holding public authority, entrusted with a public service mission or invested with an elective public mandate or exercising specific functions in State structures, public administrations, local authorities, public institutions, companies with public participation or mixed economy, banking organisations, self-managed consumption, industrial or agricultural production units, or any private law body managing a public service, self-managed consumer, industrial or agricultural production units, or any private law body managing a public service, who procured or attempted to procure for others an unjustified advantage to another person by an act contrary to the legislative and regulatory provisions aimed at guaranteeing equal access and equality of candidates in public contracts and contractual transfers of management of public services, shall be punished with imprisonment of one to three years and a fine of between 50,000 and 100,000 francs,

Subsection 7: Unlawful taking of interest

Article 60:

Any person holding public authority or entrusted with a public service mission or any person invested with an elective public mandate, who takes, receives or retains, directly or indirectly, any interest whatsoever in a company or in an operation of which he or she is, at the time of the act, wholly or partly responsible for ensuring the supervision, administration, liquidation or payment, shall be punished with imprisonment of five to ten years and a fine of five hundred thousand to one million francs,

Any person who, as a public official or servant or agent of a public administration, has been entrusted by reason of his function with the supervision or direct control of a private company, or with expressing his opinion on the operations carried out by a private company and who, either on leave of absence, on availability, or after admission to retirement, or after resignation, dismissal or removal and for a period of 3 years from the date of cessation of the function, will exercise in this company a mandate of any kind or a remunerated activity in any way whatsoever, shall be punished with imprisonment of two to five years and a fine of two hundred thousand francs.

Subsection 8: Abuse of corporate assets

Article 61

Any official or agent of a public or private company who makes use of his property in a manner which he knows to be contrary to the interests of the company shall be punished with imprisonment of two to five years and a fine of fifty thousand to one hundred thousand francs.

Subsection 9: Money laundering

Article 62:

The offence of money laundering is committed by anyone who:

1. converting, transferring or disposing of property with full knowledge that it is the proceeds of corruption and related offences in order to conceal or disguise the illicit origin of the property or to assist any person involved in the commission of the offence to evade the consequences of his or her action
2. the concealment or disguise of the true nature, source, location, disposition, movement or ownership of property or rights, the proceeds of corruption or any of the related offences;
3. the acquisition, possession or use of property the origin of which, at the time of acquisition, possession or use, is the proceeds of corruption or any of the related offences.

Any person who commits or attempts to commit any of the offences referred to in the preceding paragraphs shall be punished with imprisonment of between fifteen and twenty years and a fine of up to twice the value of the property involved in the laundering.

Subsection 10: Active bribery of foreign public officials, officials of public international organisations and non-governmental organisations

Article 63:

Anyone who, without right, directly or indirectly, proposes, offers or grants offers, promises, gifts, presents or advantages of any kind to obtain from a foreign public official, an official of a public international organisation or of a non-governmental organisation, to perform or refrain from performing an act in the exercise of his or her official functions or to retain a contract or other advantage in connection with international trade activities, shall be punished with imprisonment of five to ten years and a fine of up to twice the value of the illicit profit acquired.

Any person who has acted as an intermediary in the commission of the offence referred to in this article shall be punished by the same penalties.

Chapter III: Criminal liability of legal persons

Article 64:

Legal persons, both public and private, shall be held liable for corruption and related offences provided for in this law, when committed by their representatives or by those occupying positions of responsibility within them and acting on behalf of these legal persons, on the basis of :

1. a power of representation;
2. decision-making power;
3. power of control.

The liability of legal persons under the preceding paragraph does not exclude individual prosecution of their representatives or accomplices.

Article 65:

Both public and private legal persons who are guilty of the offences provided for in this law shall be fined from double to ten times the value of the illicit profit received or accepted, demanded, granted or promised.

Article 66:

During the investigation, prosecution and trial of legal persons for the offences provided for in this law, the legal representatives shall represent them.

Legal representatives of such legal persons may not be convicted of offences charged to the legal persons they represent, except in respect of their individual liability.

Chapter IV: Accessory penalties.

Article 67:

Natural persons guilty of any of the offences provided for in this law may also be subject to the following accessory penalties:

1. confiscation as provided for by the relevant provisions of the Penal Code,
2. permanent ban from Burundian territory for a fixed period of not less than five years for any foreigner;

3. disqualification from holding public office or from exercising the professional or social function in the course of which or in connection with which the offence was committed, for a period of up to ten years;
4. posting or broadcasting the decision.

Article 68:

Legal persons guilty of any of the offences provided for in this law may also be subject to the following accessory penalties:

1. special confiscation as provided for in the Penal Code.
2. for a period of up to five years:
   - a ban on directly or indirectly carrying out the professional or social activity in which or in the course of which the offence was committed,
   - the closure of the company's facilities used to commit the offences;
   - exclusion from public procurement.
3. the posting or dissemination of the decision.

Chapter V: Exemptions and mitigation of penalties .

Article 69:

Except in the case of recidivism in corruption, any person, perpetrator or accomplice of active corruption who, before any prosecution, has revealed the offence to the administrative or judicial authority and has made it possible to identify the other persons involved, shall be exempt from punishment.

Except in the case provided for in the preceding paragraph, the maximum penalty incurred by any person, perpetrator or accomplice of one of the corruption offences, who, after the initiation of proceedings, has allowed or facilitated the arrest of the other persons involved, shall be reduced by half.

In addition, it shall be exempt from the accessory penalties provided for in Articles 67 and 68 of this law.

In all cases, the corruptor shall never be reimbursed for the things he has delivered. They shall be confiscated for the benefit of the Treasury.

PART V: TRANSITIONAL AND FINAL PROVISIONS

Article 70:

Persons who are obliged to file their wealth and assets declaration before the Supreme Court in office at the time of the enactment of this law shall have a period of one month to make the declaration from the day the law comes into force.

Those who have to make the declaration before the other courts have six months to do so.

Any property that is not declared within these time limits when it should be may be investigated by the competent authorities.

Article 71:

After the entry into force of this law, cases pending before the courts, in the investigation stage at the Public Prosecutor's Office or at the investigation stage at the Judicial Police, shall be transferred to the competent judicial bodies.

Article 72:

Subject to the amendments made by this law, the provisions of Book 1 of the Penal Code shall apply to the offences provided for in this law.

The rules of criminal procedure, judicial organisation and jurisdiction which are not expressly modified remain applicable.

Article 73:

All previous legislative or regulatory provisions contrary to this law are repealed.

Article 74:

The Ministers of Good Governance and Justice are responsible, each in his or her own area of responsibility, for the implementation of this law.

Article 75:

This Act shall enter into force on the day of its enactment.

Done at Bujumbura, 18 April 2006

Pierre NKURUNZIZA

THE PRESIDENT OF THE REPUBLIC

SEALED WITH THE STAMP OF THE REPUBLIC

THE MINISTER OF JUSTICE

ADV. Clotilde NIRAGIRA