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Ibirimo/Summary/Sommaire

Itegeko/Law/Loi

N° 08/2005 ryo ku wa 14/07/2005

Itegeko Ngenga rigena imikoreshereze n'imicungire y'ubutaka mu Rwanda.....

N° 08/2005 of 14/07/2005

Organic Law determining the use and management of land in Rwanda.....

N° 08/2005 du 14/07/2005

Loi Organique portant régime foncier au Rwanda.....

ORGANIC LAW N° 08/2005 OF 14/07/2005 DETERMINING THE USE AND MANAGEMENT OF LAND IN RWANDA

We, KAGAME Paul,
President of the Republic;

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

THE PARLIAMENT:

The Chamber of Deputies, in its session of June 21, 2005;

The Senate, in its session of June 20, 2005;

Given the Constitution of the Republic of Rwanda of June 4, 2003 as amended to date, especially in its articles 11, 29, 30, 31, 32, 49, 62, 88, 89, 90, 92, 93, 95, 108, 118, 159, 189, 190 and 201;

Given the African Charter on Human and Peoples Rights of June 27, 1981 ratified by the Republic of Rwanda on November 11, 1981 in Addis Ababa, especially in its article 14, as approved by law n° 10/1983 of May 17, 1983;

Given the Organic Law n° 17/2004 of June 20, 2004 determining the organization, competence and functioning of the Mediation Committee, especially in its articles 7 and 8;

Given organic law n° 04/2005 of April 2005 determining the modalities of Protection, Conservation and Promotion of Environment in Rwanda;

ADOPTS:

CHAPTER ONE: GENERAL PROVISIONS

Article one:

This organic law determines the use and management of land in Rwanda . It also institutes the principles that are respected on land legal rights accepted on any land in the country as well as all other appendages whether natural or artificial.

Article 2:

In this organic law, the following terms shall be defined as follows:

1° **Construction area** is an area purposely for human settlement, trade and industries, an area reserved for recreation and other basic activities of public utility.

2° **area not for construction is** an area reserved for agriculture, afforestation, grazing, reserved, tourist places and recreational gardens.

3° **Calamity is** a sudden and unplanned phenomena, such as snow, grasshopper invasion, a long term famine, wars, floods or landslides, volcano eruption, earthquakes and the like.

4° **Land title is** a written document confirming a person's rights to land, which is governed by written laws and delivered according to the law by competent authorities.

5° Swamp is a plain area between hills or mountains with water and biodiversity, papyrus or carex or plants of their species.

6° Land consolidation is a procedure of putting together small plots of land in order to manage the land and use it in an efficient uniform manner so that the land may give more productivity.

7° Road boundaries is an area of a road including its annexes up to a certain length measured from the middle of the road. They are composed of motorways and pedestrian paths, shoulders of the two sides, canals and other artistic constructions.

8° cession is an act of a definitive give a way to a third party, of a property or properties, that compose one's property or the rights thereof.

9° Escheat land is a piece of land without any person with particular rights over it whether it was never owned or owners abandoned it and it became vacant or it is impossible for the individuals to fully own it.

10° Vacant land is a piece of land which has no heir and which is succeeded by the state.

11° concession as mentioned in law n° 530/1 of May 26, 1961 on 'ubukonde' in the territories of Gisenyi and Ruhengeri is a right of persons who inhabited the land were entitled to as occupants.

12° Agriculture is all activities carried out on the land related to any crops and plants and rearing of any animals, forestry and nurseries;

13° Lease is a contract between a landlord and a third party so that the latter may exploit the former's land and harvests fruits but on which he or she has to pay a negotiated price.

14° Lease of state land hosting public infrastructure is a contract between the government and an individual on condition of rent payment, to personally hold or to exploit the public land with public infrastructure.

15° "ubukonde" as provided for in law n° 530/1 of May 26, 1961 on ubukonde in the territories of Gisenyi and Ruhengeri, it is a right that a family chief possessed on a forested land which had no owner, which he or she deforested once or which he or she acquired through agreement with the owners. The chief could make his or her family the successor of such land.

16° Granting right is the right to sell, to give gratuitously, exchange or to bequeath.

17° Servitude is a right a person is entitled to on a land that is not his or her due to circumstances, such as the right of passage through another person's land so that he or she may reach his or her own land, the right to water resources on another person's land, or the right to channel running water through another person's land below your own.

The servitude is provided for by law or from mutual agreement between the concerned parties.

18° Land is a surface area with biodiversity like humans, animals and different plants and non biodiversity like rocks, buildings, various infrastructure, rivers, lakes as well as the sub soil and its atmosphere.

19° Public Land to conserve environment and culture is the land that should be particularly protected, swamps and any other wetland, the land to preserve animals and plants like the National Parks and the forests as well as historical sites or areas reserved for cultural sites, Genocide memorials and cemeteries.

20° Competent authority is one or several organs with powers provided for by law.

21° Prescription is a procedure of definitive possession of rights over property or losing rights over the property due to expiration of a certain period of time provided for by law.

22° Expropriation is an act of taking away individuals' land by the state due to public interest but prior to respect of procedures provided for by law and prior to payment of adequate compensation.

23° Pasture land is an area with pasture and various plants which are for animals to graze.

24° Bonafide occupant is a person who owns his or her property with an undoubtable certificates.

25° Unlawful occupant is an un authorised person who owns other persons' properties whether he or she may have acquired them without any certificate to authorise him or her to do so, or he or she may have employed fraud to acquire the certificate.

Article 3:

Land is part of the public domain of all Rwandans; ancestors, present and future generations.

With exceptions of the rights given to people, the state has supreme powers to manage all the national land, and this is done in public interest aimed at sustainable, economic development and social welfare, in accordance with procedures provided for by law.

In that regard, it is the state that guarantees the right to own and use the land. The state also has rights to expropriation due to public interest, settlement and general land management through procedures provided by law and prior to appropriate compensation.

Article 4:

Any person or association with legal personality has the right over the land and to freely exploit it as provided for by this organic law in article 5 and 6.

Any discrimination either based on sex or origin in matters relating to ownership or possession of rights over the land is prohibited. The wife and the husband have equal rights over the land.

Article 5:

Any person or association with legal personality that owns land either through custom, or who acquired it from competent authorities or who purchased it are allowed to own it on long term lease in conformity with provisions of this organic law.

Article 6:

Any person whether a Rwandan or a foreigner who invested in Rwanda, or an association with legal personality shall enjoy full rights of ownership of land reserved for residential, industrial, commercial, social or cultural and scientific services.

The procedure to obtain authentic documents of such personal property is determined by the Minister having Land in his or her attributions.

Article 7:

This organic law protects equally the rights over the land acquired from custom and the rights acquired from written law.

With regard to law, owners of land acquired from custom are all persons who inherited the land from their parents, those who acquired it from competent authorities or those who acquired it through any other means recognized by national custom whether purchase, gift, exchange and sharing.

Article 8:

There are hereby established land commissions at national, provincial and the City of Kigali level and at the level of district, town and municipality.

The organization, responsibilities, functioning and the members of land commissions are determined by a Presidential order. At each level, the land commission shall include both men and women.

CHAPTER II : CATEGORISATION OF LAND

Section One : Urban and rural land

Article 9:

Urban land is land which is confined within boundaries of towns and municipalities established by law. A presidential order determines any other land that is considered as urban land that is in suburbs of towns and municipalities and in the collective settlements. Any other land is rural land.

Article 10:

Notwithstanding provisions of law n° 05/2001 of 18/01/2001 determining the organization and functioning of towns and municipalities in Rwanda as modified and completed to date and the law n° 07/2001 of January 19, 2001 determining the organization and functioning of the City of Kigali as modified and complemented to date, all public land whether in boundaries of towns and municipalities or that one in urban areas is managed by the Ministry having Land in its attributions or other competent authorities.

Section 2: individual ownership of land

Article 11:

Individual land is composed of the land acquired through custom, written law which excludes public land or district, town, municipality and the City of Kigali land, the one acquired from competent authorities, purchased land, gift, exchange and sharing.

Section 3 : State Land

Sub-section one : Public domain

Article 12:

State land which makes up the public domain consists of all the land meant to be used by public or land reserved for organs of state services as well as national land reserved for environmental protection. This is to say:

1° Land containing lakes and rivers as listed by an order of the Minister having water in his or her attributions;

2° Shores of lakes and rivers up to the length determined by an order of the Minister having environment in his or her attributions starting from the furthest line reached by water depending on successive floods. This is not concerned with exceptional floods;

3° Land occupied by springs and wells determined in accordance with an order of the Minister having water in his or her attributions;

4° National land reserved for environmental conservation composed of natural forests, national parks, reserved swamps, public gardens and tourist sites ;

5° State roads and their boundaries which were listed by the order of the Minister having infrastructure in his or her attributions;

6° Land and buildings the administration reserved for public activities or the land used by public administration organs.

Article 13:

Lake and river waters and underground water are public domain. Notwithstanding provisions of regulations relating to the use of such waters, as well as particular agreements the state may enter with interested persons who may take over the management of such water, the powers to use the water is common to all persons.

Whatsoever, no person is allowed to pollute water and no one is allowed to change its course without permission from the competent authorities.

Sub section 2 : Private State owned land

Article 14:

Private state owned land consists all the land that is not included in state land reserved for public activities infrastructures and that the land that does not belong to district, City of Kigali, towns and municipalities or individuals.

The following shall be included in the private state owned land:

1° Vacant land which includes land that has no owner and the land that was retaken by the state in respect to confiscation mentioned in article 75 of this organic law;

2° State land previously occupied by public activities but which was excluded in that category according to law;

3° Land purchased by the state, donation or land acquired through expropriation due to public use;

4° swamps that may be productive in terms of agriculture;

5° Land occupied by state owned forests.

Placement of state land that make up public domain in the category of private state owned land mentioned in article 12 of this organic law, from point 1° to point 4° shall be determined by law while from point 5° to point

6° shall be determined by the order of the prime minister.

Article 15:

Vacant land and the remaining land that have no person with rights over them are included in the private state owned land. They shall be used in developmental activities and in various activities related to the general management of the state and in allocation to persons mentioned in article 87 of this organic law who do not own land.

The land commission at the national level shall always inform the Minister having Land in his or her attributions the land mentioned in paragraph one of this article.

The Minister having Land in his or her attributions may delegate powers to the authorities of the district, town or municipality or City of Kigali to manage that land.

Section 4 : District, Town and Municipality land.

Article 16:

District, Town and Municipality land consist of the land meant for public domain of the district and town or municipality and their private owned land.

The state may donate land to any district; town or municipality either reserved for public domain or as its own private land.

Land given to district, town or municipality by the state for public domain, shall be included in the district, town or municipality land meant for public domain, while land from private state owned land donated to the district, town or municipality shall become district, town or municipality private owned land.

A district, town or municipality may also receive land by purchasing it or by donation from individuals or associations, and the land shall be either district, town or municipality owned for public domain or private owned land for district, town or municipality.

Sub section one :The District, Town or Municipality and the City of Kigali land that compose the public domain

Article 17:

District, Town or Municipality and the City of Kigali land which make up the public domain consists of the following:

1° District, town or municipality land reserved for public activities or land on which structures of district, town or municipality services and activities are carried out ;

2° District, town or municipality feeder roads and their edges listed by the order of the Minister having Infrastructure in his or her attributions ;

3° Land for collective settlements.

Exclusion of the district, town or municipality land from the public domain in order to include it in the private owned land of the district, town or municipality shall be carried out by the order of the Minister having Land in his or her attributions, upon request of the Land Commission of the District, Town or Municipality.

Sub section 2 : The Private District, Town or Municipality and the City of Kigali owned land

Article 18:

District, Town or Municipality and the City of Kigali land not reserved to be used for public activities or structures of District, town or municipality and the City of Kigali services shall be considered as private District, town or municipality and the City of Kigali owned land.

CHAPTER III: MANAGEMENT, ORGANISATION AND EXPLOITATION OF LAND

Section one : General provisions

Article 19:

In regard to national land management, there shall be established an efficient land structural exploitative chart whether in settlement, agriculture, forestry, animal husbandry, industrial activities and the general public works, national parks, lakes and rivers, mining and others, swamps and other natural reserves.

Various particular laws shall determine management, organization and the exploitation of provisions mentioned in paragraph one of this article.

Article 20:

In respect of public interest and in a bid to improve rural land productivity, the Minister having Agriculture in his or her attributions in conjunction with local authorities and the respective residents may approve the consolidation of small plots of land in order to improve land management and productivity. Each landholder shall be entitled to the rights over his or her parcel of land.

Procedures for the land consolidation of the small plots of land shall respect the order of the Minister having Agriculture in his or her attributions, which determines the modalities of land consolidation and productivity.

Without prejudice to provisions of paragraph one of this article, it is prohibited to reduce the parcel of land reserved for agriculture of one or less than a hectare. Similarly, the land between one hectare and five hectares may be reduced if the land commission at the level of jurisdiction where the land is found authorizes the owner of the land.

Article 21:

Without prejudice to provisions relating to donating or leasing land, all agreements relating to cessions or leasing may be suspended in order to facilitate the preparation and implementation of the efficient land structural organizational chart without any obstacle.

All agreements relating to cession and lease of land shall respect the land structural organizational chart of the area where the land is located.

Article 22:

The land commissions established in accordance with article 8 of this organic law shall have a role in the preparation and implementation of the land structural organizational chart and the exploitation of land as well as plot division and consolidation as provided for in article 20 of this organic law.

Section 2 : Cession and lease of state land

Article 23:

The receiver of any land ceded shall respect the management, exploitation and the organizational land program as approved by competent authorities.

Article 24:

Notwithstanding the provisions of article 6 of this organic law, the right to landlordship is guaranteed by the state in terms of lease.

The period of land lease shall not be less than three (3) years or more than ninety-nine (99) years. Such a period may be extended.

The Presidential Order in accordance with what such land is intended for determines the exact number of years of land lease.

Article 25:

Competent authorities assisted by a commission in charge of land at every level shall allocate or lease land.

Procedures to be followed in land allocation and lease are determined by an order of the Minister having Land in his or her attributions.

Article 26:

Certifying that the land has been allocated or leased on sustainable basis shall be indicated by a certificate approving the registration of land issued by registrar of land authentic deeds.

The structure, powers and functioning of the registrar of land authentic deeds are determined by a Presidential order.

Section 3 : Allocation and leasing of State land

Article 27:

The requirements to be respected in allocation and leasing of District, Town or Municipality and the City of Kigali land as well as the land that belong to state parastatals that have legal personality, mining sites and quarries are determined by an order of the Minister having land in his or her attributions.

Article 28:

Specific laws shall determine the allocation and leasing of state land mentioned in article 12 of this organic law.

Article 29:

Swamp Land belongs to the state . It shall not definitively be allocated to individuals and no person can use the reason that he or she has spent a long time with it to justify the definitive take over of the land.

In order for the swamp land to be efficiently managed and exploited, the order of the Minister having Environment in his or her attributions shall determine a list of swamps and their boundaries.

Such a list shall clearly indicate the structure of the swamps, their use, how they can be organized so that they can be beneficial to Rwandan nationals on a sustainable basis.

The Minister having Environment in his or her attributions shall institute an order certifying the modalities of how swampland shall be managed, organized and exploited.

Section 4: Land registration

Article 30:

Registration of land a person owns is obligatory. The order of the Minister having Land in his or her attributions specifies the procedures through which land registration is carried out.

Article 31:

Without prejudice to specific laws relating to the exploitation and management of land in boundaries of Towns or Municipalities, there is hereby established a land bureau at the level of every district, town or municipality responsible for registration of land.

An employee called the Land Officer shall direct the land bureau.

The Land Officer shall keep land registers and issues certificates approving ownership of land.

Regarding land issues, he or she holds the power of the public notary and in regard to administration, he or she is supervised by administration of town, municipality or district in which the land he or she is responsible to register is located.

The structure of the registers mentioned in paragraph 3 of this article as well as other responsibilities and functioning of the land bureau are determined by the order of the Minister having Land in his or her attributions.

Article 32:

The following certificates shall accompany the letter of application to certify landlordship:

1° a detailed identity of the applicant, and of his or her spouse if married under the regime of community of property ;

2° brief description of the land, indicating particularly the area, where the land is located with reference to well known landmarks like roads, rivers, neighbours sharing boundaries ;

3° Any document certifying that the applicant is the person for whom the certificate is being sought, such as a certificate from the authorities, a certificate delivered to him or her by competent authorities at the time he or she was given the land or an official copy of a court's final decision.

Section 5 : Transfer of land rights

Article 33:

Without prejudice to provisions of article 20 of this organic law relating to the area of the land which cannot be divided, land is an immovable property included on the list of properties that are inherited. Succession of land is allowed, and it shall be conducted in accordance with procedures of succession provided for in the law that governs succession.

Article 34:

Rights based on Land may be transferred through different individuals or it may be guaranteed through succession; it may be guaranteed gratuitously, leased or sale; it may be mortgaged according to requirements and procedures provided for by ordinary civil law without prejudice to specific provisions of this organic law.

Article 35:

Final transfer of rights on land like sale, donation or exchange by a representative of the family requires the prior consent of all other members of the family who are joint owners of such rights.

Article 36:

Without prejudice to provisions of the civil code that govern the family, members of the family mentioned in article 35 of this organic law are spouses legally married, children who have attained majority age, minors represented by their guardians and the incompetent children represented by their tutors.

Article 37:

Consent mentioned in article 35 of this organic law is indicated by a document signed or finger printed by the concerned people, and done before a registrar of civil status or before the registrar of lands of which he or she shall record in his or her registers.

Article 38:

Consent mentioned in article 35 of this organic law is also necessary in land mortgaging, lease, long term renting or in case there is mutual consent on the right of servitude.

Assignment, land mortgage, leasing, renting land for a long period and servitudes cannot be prejudicial to third parties, if they are not recorded in land registers.

Section 6: land lease for agricultural production

Article 39:

Without prejudice to respect of the civil law relating to obligations in general, this section regulates land lease and other immovable properties meant for agriculture excluding matters related to forestry, which are governed by particular laws.

Article 40:

Only written lease contracts are allowed and protected by the law whatever its cost may be.

Article 41:

Without prejudice to provisions of chapter III of this organic law in its section 2, the period for agricultural land lease is mutually determined by both of the contractual parties.

However, any lease contract carried out by a guardian shall not exceed a period of three (3) years.

Article 42:

The land lease expires by law if the period of time planned expires without notice. When the lease for a determinate period expires, and the tenant remains on the leased land without the opposition of the landowner, and has not given any notice to the tenant, the lease contract shall be automatically renewed on the same conditions as the previous one as well as the expiration of the lease regardless of any other formalities between the contracting parties.

When notice has been given, the tenant cannot invoke the extension of the terms of the previous contract if the period of its termination expires even if he or she had continuously exploited the land.

However, in accordance with what has been mentioned in paragraph 2 of this article, the deposit for the lease shall not apply to obligations from the extension of the new lease, which was not subject to any specific formalities.

Article 43:

Even if the contract provides a determinate period of time, the landowner may terminate the contract any time after giving a notice depending on the contract they entered.

However, if the period of the notice expires when the tenant has not yet harvested his or her crops, the landowner shall give him or her the necessary time for harvesting the crops.

If he or she cannot respect the contract, he or she shall determine equivalent indemnity as provided by the law.

Article 44:

If in leasing land meant for agriculture, there was registration of the area less or greater than its actual area, the rent shall be reduced or increased upon mutual agreement between the contracting parties, in accordance with the actual area and depending on the next payment is due following the notification of the issue; only that the tenant has the right to request for termination of the contract. The issue may be admitted during the whole period of the lease.

Article 45:

A tenant does not have the right to sub lease the land to third parties or to transfer the lease to another person without a written permission from the landlord.

Article 46:

The landlord shall not be responsible for disputes between the tenant and third parties as long as they are not claiming any rights over the land; it is the tenant personally that shall sue in the competent authorities.

However, a tenant is obliged to inform the landlord about all activities connected with the usurpation or the protection of the land within the period set by the court summons; failure to do so, he or she shall be liable for damages and compensation for any destroyed property.

Article 47:

When the landlord sells the land under lease, the new owner shall not evict the tenant before the expiry of the period stipulated in the contract unless it is explicitly provided for in the lease contract that the buyer shall have such rights.

In this case, the buyer is required to give a notice in advance provided by the terms of lease contract. If it is not provided in the lease contract, he or she shall give him or her a period of at least three (3) months.

The buyer shall also observe the provisions of this organic law from articles 59 to 69.

Article 48:

When the lease contract provides that the buyer has the right to evict the tenant, but it is silent on compensation the tenant shall receive, the landlord shall pay the tenant an indemnity expressed in article 43 of this organic law.

Article 49:

In case the tenant dies, the lease contract shall be legally passed on to his or her heirs or other assignees.

However, the heirs or assignees of the deceased may, within a period of one (1) year of his or her death, terminate the contract but after giving a notice in advance of at least three (3) months.

The landlord cannot evict the heirs of the deceased or his or her assignees before the end of the period of the lease contract expires except only in the case such powers were explicitly provided for in the terms of the lease contract.

Article 50:

Heirs or assignees of the deceased tenant may agree jointly on keeping the lease or to give it to one or several of them in order for them to proceed with it.

In case they do not agree, each of them has the right to request the court to appoint him or her to continue with the lease, but who shall pay other co heirs or assignees of the deceased tenant the relevant compensation determined by a court.

If several of them wish to keep the lease and there was no compromise, the order of inheritance shall apply.

Article 51:

The heirs and assignees of the deceased tenant shall inform the landlord about the one who proceeds with the lease.

Any time, before the landlord is informed of the final decision, heirs or assignees shall pay the rent jointly.

Subsequent obligations after the notification of the decision shall be borne by the person who continues with the lease.

Article 52:

The tenant is obliged to take care of various activities meant for conservation of the land that are on the land under his or her lease.

In case it is not done contrary to the responsible land commission's report, the landlord, exceptionally, can do the work of conserving the land on behalf of the tenant. The tenant is however, obliged to pay the landlord the actual amount for undertaking such a responsibility.

Article 53:

Matters arising from land disputes are heard by competent courts and through procedures provided for by law.

Before the matter is taken to the court, the parties to the dispute are required to seek a solution of the problem from the mediation committee at Sector level. This concerns the land that has no authentic title deeds.

CHAPTER IV : RIGHTS AND OBLIGATIONS OF LANDLORDS

Section one : Rights

Article 54:

Without prejudice to laws related to human settlement, general land organization and use, the landowner shall enjoy full rights to exploit his or her land in accordance with the existing laws and regulations.

Article 55:

The landowner has no right over minerals and any other wealth under ground; they belong to the State. However, he or she is allowed before others to enjoy rights of their exploitation upon his or her request and if he or she is capable.

Article 56:

Notwithstanding the provisions of the laws governing expropriation due to public interest, the state recognizes the right to freely own land and shall protect the owner from being dispossessed of the land whether totally or partially.

Article 57:

All buildings, crops and other works found on land are presumed to have been performed by the owner of the land using his or her money or otherwise, and are presumed to be his or hers in case there is no proof to the contrary. However, this does not prohibit any other person to own buildings, crops or any other works on other persons' land in procedures provided for by law.

Article 58:

When buildings or crops have been performed by a person on the land that is not his or hers through procedures that are contrary to law, the landlord has the right to request the person who performed them to remove such property without prejudice to the landlord to claim indemnities for any damages in case there is any property destroyed.

If the landowner decides to keep the buildings or the plants, he or she must pay a price equivalent to their value.

Section 2 : Obligations

Article 59:

Assignment, concession and lease contracts shall specify conditions to be fulfilled for the conservation, and exploitation of the land in accordance with the intended use of the land.

Article 60:

Unless it is considered to be necessary, the landlord shall not act against other people's rights. In that regard he or she shall not:

- 1° refuse passage to his or her neighbors leading to their homes when there is not any other way;
- 2° blocking water that is naturally flowing through his or her land from other persons' land above his or hers;
- 3° refuse other people to draw water from a well found on his or her land unless he or she can prove that such a well has been dug or built by him or her.

Article 61:

The landowner, as well as any other user of the land is obliged to obey laws and regulations relating to protection, conservation and better exploitation of the land.

Article 62:

Any person who owns land must use it in a productive way and in accordance with its nature and intended purpose.

The use of land in a productive way is to protect it from erosion, safeguard its fertility and ensuring its production in a sustainable way.

Any person who uses another person's land, either basing on the contract he or she entered into with the owner of the land or whether he or she acquired it through legal procedures is required to properly maintain it and use it in a productive manner.

Article 63:

Productive use, appropriate protection and sustainable land productivity shall be based on the area's master plan and the general structure on land allocation, organization and use and specific plants certified by relevant authorities.

Article 64:

Any land with crops or buildings, land with forests in a manner that does not degrade environment, land which has been prepared for planting seeds, land that has been under fallow for not more than three (3) years, land in which crops have been harvested, as well as land for grazing either by individuals, associations or organizations with legal personality is considered to be properly conserved and productive.

Article 65:

The land cannot be considered as properly conserved and productive if :

- 1° the land is not protected from soil erosion;
- 2° the land is meant for agriculture but without crops or other plants at least up to a half (1/2) of its area;
- 3° the land meant for grazing which is not used for the same in an appropriate manner or if it has no pasture for animals up to at least one half (1/2) of its area;
- 4° the land is meant for any buildings but such buildings were not built in a period that is prescribed by law;
- 5° the land is meant for non-profit activities but a period equivalent to three (3) years elapses without the commencement of such activities.

Putting beacons, erecting walls or fencing the land does not mean efficient conservation of the land and productive exploitation as stipulated from articles 61 to 64 of this organic law.

Article 66:

Specific obligations of each contracts relating to land must be clearly explained during the period of making the contract either in the contract itself or in a separate book containing such obligations which is attached to the contract.

Clauses in the national general land organisation and utilisation plan shall always be respected at all times whether they were prepared before the contract or during the implementation of the contract terms.

Article 67:

A landolord shall not hinder underground activities or those in the space above his or her land when such activities are of general interest. If such activities cause any loss to him or her, he or she shall always receive appropriate compensation.

Article 68:

A landlord has an obligation to pay land tax determined by a specific law.

CHAPTER V : PRESCRIPTION

Article 69:

With exception of specific provisions this organic law stipulates, rules of the civil code relating to prescription are applicable also to matters related to land.

Article 70:

In matters related to land, the right to pursue landlordship shall be prescribed for thirty (30) years.

Article 71:

Persons, who by force, or through fraudulent means, occupy vacant and escheat land or other people's land, cannot invoke the interests of the right to prescription to claim that the right to pursue the land extincted, prescribed or that they have full ownership, even if they have occupied it for a period longer than the period of prescription.

Article 72:

Persons who owns other people's property, whether borrowed land for use or residential houses found on that land shall not definitively own the land due to reasons of prescription whatever the length of the period of time of their occupation. That land shall become state owned private property.

Among the members of the same family, there shall be no extinction of rights of prescription. If a person disappears, although he or she spends a long time, at any time he comes back he can pursue his or her rights in accordance with the family civil code.

CHAPTER VI: PENALTIES

Section one: Administrative penalties

Sub section one: Requisition of degraded and the unexploited land

Article 73:

The district, municipality and town land commission shall always monitor that individual and leased district land in the district, municipality and town is well managed and productively exploited. Every year, the commission shall make a report on the monitoring and submits it to the mayor of the district and other officials with powers to donate or lease state private owned land.

Those officials may impose sanctions provided for in this chapter of this organic law against the landlord or any other person allowed to lease the land who fails to respect the obligation of efficiently conserve the land and productively exploit it.

Article 74:

The Minister having land in his or her attributions or any other official with powers to allocate or lease state private owned land, after consideration of the views of the responsible land commission, is allowed, if it is clear that the land has spent a period of three (3) consecutive years when it is not in use with no sound reason, to order requisitioning of the land for a period of three (3) years which may be renewable for another three (3) years.

If it is clear that the land is degraded, the Minister having land in his or her attributions, or any other competent person, after consulting the responsible land commission, shall requisition the land irrespective of the period mentioned in paragraph one of this article.

Requisition shall only be carried out on a piece of land that is not productively exploited or one under degradation, but after a registered written notice is given to the landlord or the person who was supposed to utilize it at least six (6) months before requisitioning.

The requisitioned land may be entrusted to another person who so requests and who demonstrates ability to efficiently conserve the land and productively exploit it. If there is no person available, the district, town or municipality in which the land is located shall conserve it and productively exploit it.

Sub section 2: Forceful confiscation of degraded and unexploited land

Article 75:

Due to general interest, except in case it is clear that there is a concrete reason as to why the land was not utilised, any land in the following categories may be confiscated:

- 1° the land that was requisitioned as mentioned in article 74 of this organic law, which was given back to the owner who fails to respect paragraph one of article 78 of this organic law;
- 2° the land which was requisitioned for six (6) years and the owner does not apply for its repossession;
- 3° the land in the boundaries of outskirts of towns of which it is clear that it has spent three (3) consecutive years unexploited.

Article 76:

The Minister having Land in his or her attributions after consultation with the national land commission shall approve confiscation of the land.

Article 77:

The decision to confiscate the land from the owner cannot be taken before the landlord has been given a registered formal warning notice or a letter with a certificate of acknowledgement at least six (6) months before confiscation.

If the landlord cannot be found, the registered formal warning shall be given to the land user and it shall be displayed on notice boards of the District, Town or municipality or the City of Kigali and of the Sector where the land is located for a period of six (6) months as stipulated in paragraph one of this article.

The registered formal warning shall indicate, beyond reasonable doubt, the reason for the basis of the decision taken, and the day on which failure of exploitation of the land was noticed.

Sub section 3: Repossession of requisitioned land

Article 78:

The owner of the requisitioned land may request for repossession of the land. He or she shall only be given back the land if he or she shows commitment, in writing, to efficiently use it and productively exploit it within a period of not more than one (1) year after repossession of the land, or from the time it started being used and he or she undertakes to conserve it.

Repossession of the requisitioned land shall respect the same formalities, which were respected in its requisition, and competent authorities that have powers to order for the requisition shall certify it.

Article 79:

Application for the repossession of the requisitioned land or the undertaking to use the land appropriately due to written warning prior to requisitioning shall be done in writing showing new strategies for better

exploitation and the resources the applicant has to immediately put the land to proper use in a sustainable way.

That written note is required to have been submitted to the authorities that requisitioned the land or the person that sent the written warning before the time provided for in article 74 and article 75 expires in case the land was requisitioned. It shall be done in a similar way before six (6) months elapse, if there was warning prior to requisition of the land.

Article 80:

The authorities shall examine the request on the basis of the location of the requisitioned land or the land to be requisitioned as well as the circumstances of each proposal and the authorities shall accept the proposal if justified or shall reject it, if it is baseless.

In case the authorities reject such a request, the decision taken shall indicate the reasons for its basis, through the given opinion and advice and in presence of the concerned person who shall be informed of his or her right to appeal to a competent court within a period not exceeding six (6) months.

Article 81:

No damages shall be awarded on repossession of land that was requisitioned.

Article 82:

If land is guaranteed to a third party, it shall be written in land registers, failure to do so renders ownership of land null and void before others or the owner.

In order for the landlord to repossess the land, he or she shall be given the land by the authorities that requisitioned it after a period of not less than three (3) years from the day of its requisition. In case of repossession, the investments of the person who had been allocated the land shall be passed to the owner with no payment of compensation.

However, the person to whom the land was allocated shall be given an advance notice of six months (6) before giving back the land to the owner.

Section 2 : Penal Sanctions

Article 83:

Without prejudice to heavier penalties provided for by the Penal Code, the following person shall be punishable by an imprisonment from five (5) years to ten (10) years and a fine of between one hundred thousand Rwandan Francs (100,000 Rwf) and one million Rwandan Francs (1000,000 Rwf) or one of those punishments:

- 1° a land title registrar who violates rules relating to safe keeping and issuance of land registers and issuing land titles;
- 2° any person, who deliberately uses, stolen land titles, otherwise fraudulently altered or containing errors;
- 3° any person who damages or alters land titles;
- 4° any witness who deliberately gives false testimony;
- 5° any person who deliberately presents to the land registrar, identification papers and fake capacities of parties in a bid to constitute a land title.

Article 84:

Any person who disrespects provisions of article 13 of this organic law is punished by an imprisonment of six months to two (2) years and a fine of between one hundred thousand Rwandan Francs (100,000 Rwf) and five million Rwandan Francs (5000,000 Rwf) or one of those punishments:

Article 85:

Any person who disrespects provisions of articles 60, 67 and 68 of this organic law, is punished by an imprisonment of seven (7) days to six (6) months and a fine of twenty thousand Rwandan francs (20.000Rwf) to one hundred thousand Rwandan francs (100.000 Rwf) or one of these penalties. He or she is also ordered to do what he or she did not respect.

CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS

Article 86:

The «ubukonde» custom as governed by law n° 530/1 of May 26, 1961 on land tenure in the territories of Gisenyi and Ruhengeri is hereby abolished.

Persons referred to as "abagererwa" who were authorised to occupy the land by umukonde owner, who are cultivating the land, or otherwise exploits it, shall be considered like any other customary land users.

Article 87:

The state has the responsibility of giving land to persons who were denied their rights of landlordship.

The land given to such persons mainly consist of:

- 1° escheat land;
- 2° public or state owned land;
- 3° land in Public domain or Private State owned land
- 4° land in Public domain or Private District, Town or Municipality and the City of Kigali owned land;
- 5° sharing of owned Land.

Without prejudice to article 20 of this organic law in relation to land that cannot be sub- divided, land sharing which was conducted from the year nineteen ninety four (1994) is recognized by this organic law. Holders of such land shall enjoy the same rights as those under customary holdings.

Matters related to sharing of land which is mentioned in this article are not subject to compensation that is provided for by this organic law.

The order of the Minister holding land in his or her attributions determines the modalities in which sharing of land is conducted.

Article 88:

All previous legal provisions contrary to this organic law are hereby abrogated.

Article 89:

This organic law comes into force on the day of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 14/07/2005

The President of the Republic
KAGAME Paul
(sé)

The Prime Minister
MAKUZA Bernard

(sé)

The Minister of Land, Environment, Forestry, Water and Mines
MUGOREWERA Drocella

(sé)

The Minister of Local Government, Good Governance,
Community Development and Social Affairs

MUSONI Protais

(sé)

The Minister of State in charge of Economic Planning
in the Ministry of Finance and Economic Planning

NSANZABAGANWA Monique

(sé)

The Minister of Agriculture and Animal Resources

MUREKEZI Anastase

(sé)

The Minister of Infrastructure

BIZIMANA Evariste

(sé)

The Minister of State in Charge of Land and Environment
in the Ministry of Land, Environment, Forestry, Water and Mines

HAJABAKIGA Patricia

(sé)

Seen and sealed with the Seal of the Republic:

The Minister of Justice

MUKABAGWIZA Edda