

Overall Score:

64 - Weak

Legal Framework Score:

79 - Moderate

Actual Implementation Score:

48 - Very Weak

Category 1. Non-Governmental Organizations, Public Information and Media

1.1. ⁷⁶Anti-Corruption Non-Governmental Organizations

1. Are anti-corruption/good governance NGOs legally protected?

100

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes

No

Comments:

"Freedom of assembly and association is guaranteed, as well as the right to form association or organization in accordance with law"

References:

Article 32 of the Constitution of the Republic of Burundi

"Freedom of assembly and association is guaranteed, as well as the right to form association or organization in accordance with law"

Yes: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

No: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

Comments:

In law, there is no provision limiting the financing of associations and NGOs.

References:

In law, there is no provision limiting the financing of associations and NGOs.

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

No: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

Comments:

“Every year during the month of March, the association shall forward to the Minister of Interior with its responsibilities a report including the following:

- A detailed report and summary report of the activities that In the past year;
- Changes in the limbs and organs
- References bank accounts
- The list of buildings owned or otherwise.”

References:

Article 21 of Law No. 1 / 11 of April 18, 1992 with professional staff of non-profit

Yes: A YES score is earned if anti-corruption/good governance NGOs are required to publicly disclose their sources of funding.

No: A NO score is earned if no such public disclosure requirement exists.

2. Are anti-corruption/good governance NGOs able to operate freely?

83

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

Comments:

Nongovernmental organizations can base conditions to follow the administrative procedures like other organisations profit.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: NGOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: NGOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, NGOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

Comments:

They have some influence over public opinion, but considerably less than political figures.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

Comments:

No organization that fights against corruption has been closed.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Yes: A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

No: A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes

No

Comments:

No one was imprisoned in 2010.

References:

Master NDIKUMANA Placide counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011

Master NTWARI Fleury counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Yes: A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

No: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes | No

Comments:

At least one attack was reported against seven Burundi nationals working on a humanitarian mission and two UN employees.

References:

Statement by RESO Bujumbura about attack against seven Burundi nationals working on a humanitarian mission and two UN employees (http://www.africa.upenn.edu/Hornet/irin_101899.html).

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

No: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

Comments:

No militant organization of fight against corruption was killed.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

No: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

75

04a. In law, citizens have a right to organize into trade unions.

Yes | No

Comments:

"Freedom of assembly and association is guaranteed, as well as the right to form association or organization in accordance with law"

References:

Article 32 of the Constitution of the Republic of Burundi

Yes: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

No: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can form a union, but the Executive can decide not to pay the union during a strike.

References:

Master NDIKUMANA Placide counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury counsel
Location: Law firm consulting
Date: October 30, 2011

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

1.2. Media's Ability to Report on Corruption

5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes | No

Comments:

"Everyone has the right to freedom of opinion and expression in accordance with law and public order"

References:

Constitution of Burundi , Article 30:

Yes: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

No: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

Yes | No

Comments:

"Everyone has the right to freedom of opinion and expression in accordance with law and public order"

References:

Constitution of Burundi, Article 30.

Yes: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

No: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

100

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

There are no barriers to form a print media entity

References:

-Pascal NIYOYANKUNZE, editor in chief at Radio Publique Africaine,
Place : Radio Publique Africaine headquarter,
Date : 27/10/2011; 17h Bujumbura time

– Panos Paris Institut; Author: Gérard NTAHE; february 2009
Title: Textes juridiques et déontologiques régissant les médias au Burundi
Website : www.panosparis.org

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may

occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes

No

Comments:

The law governing the press in Burundi states: "The National Communications Council may decide to suspend or prohibit the circulation, distribution or sale in Burundi newspapers, periodic or other information carrier, operating a radio station or television station or a news agency when they do not comply with the law. The decision of the National Council of the communication is likely to appeal to the Administrative Court "

References:

Article 47 of Law No. 1 / 205 of 27 November 2003 governing the press in Burundi

Yes: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

No: A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100

75

50

25

0

Comments:

Media organizations are able to initiate operations. The problem is found on legal threats, arrests, etc.

References:

– Freedom House, Freedom of the Press 2011 (<http://www.unhcr.org/refworld/docid/4e5f71b628.html>).

– Pascal NIYOYANKUNZE, editor in chief at Radio Publique Africaine,
Place : Radio Publique Africaine headquarter,
Date : 27/10/2011;17h Bujumbura time

– Panos paris institute; Gérard NTAHE; february 2009;
title: TEXTES JURIDIQUES ET DEONTOLOGIQUES REGISSANT LES MEDIAS AU BURUNDI; page 45; 4 paragraph

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Interviewees responded affirmatively.

References:

– Pascal NIYOYANKUNZE, editor in chief at Radio Publique Africaine,
Place : Radio Publique Africaine headquarter,
Date : 27/10/2011;17h Bujumbura time

– Panos paris institute; Gérard NTAHE; february 2009;
title: TEXTES JURIDIQUES ET DEONTOLOGIQUES REGISSANT LES MEDIAS AU BURUNDI; page 45; 4 paragraph

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

81

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

References:

Pascal NIYOYANKUNZE, editor in chief at Radio Publique Africaine,
Place : Radio Publique Africaine headquarter,
Date : 27/10/2011, Hour : 17h Bujumbura time

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

Comments:

The law governing the press in Burundi states: "The National Communications Council may decide to suspend or prohibit the circulation, distribution or sale in Burundi newspapers, periodic or other information carrier, operating a radio station or television station or a news agency when they do not comply with the law."

References:

Article 47, Law No. 1 / 205 of 27 November 2003.

Yes: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

No: A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Licensing is required and takes more than two months. Some groups may be delayed up to six months.

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required or can be obtained at minimal cost to the organization

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

100

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

Comments:

The government does not prevent Internet users from accessing online content.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Alexandre Niyungeko

Burundian President of the Union of Journalists

Chief editor of the national radio and television of Burundi

Location: Head Office in Burundi as part of the social audit

Date: November 21, 2011 at 10am

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

Comments:

The government never removes online information or disables servers due to their political content

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

100

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes

No

Comments:

Article 10 of the law regulating the press in Burundi states, "The journalist shall not publish in a newspaper or broadcast in a television broadcasting or any other media outlet information that could undermine:

- National unity;
- Order and Public Safety
- The morality and good manners
- The honor and dignity;
- National sovereignty;
- The privacy of individuals."

References:

Law No. 1 / 025 of 27 November 2003 regulating the press in Burundi.

Article 10 : The journalist shall not publish in a newspaper or broadcast in a television broadcasting or any other media outlet information that could undermine:

- National unity;
- Order and Public Safety
- The morality and good manners
- The honor and dignity;
- National sovereignty;
- The privacy of individuals.

Yes: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

No: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

The government never prevents publication of controversial corruption-related materials.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

75

10a. In law, print media companies are required to publicly disclose their ownership.

Yes

No

Comments:

Law governing a press in Burundi, Article 17 : "Any newspaper, magazine or news agency on the Web can be published without permission after declaration required by Article 18.

Article 18 states: "Before publication of any newspaper, magazine or news agency on the Web, will be made to the National Council of Communication and the Public Prosecutor of the Prosecutor in whose jurisdiction the headquarters of the

References:

Law governing a press in Burundi, Article 17, Article 18.

Yes: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

No: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes | No

Comments:

Law governing the press Burundi, Article 28: "The authorization request is accompanied by the following information:

- Identity of the owner of the company;
- The statutes and the constitution if a corporation;
- The composition of capital;
- The list of directors, if a corporation;
- Forecasts of expenditure and revenue;
- The origin and amount of financing planned.

References:

Law governing the press Burundi, Article 28.

Yes: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

No: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

Journalists usually adhere to the journalistic code of ethics, but representatives said they knew of cases in which reporters failed in their mission because of political and financial influences.

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

IRAMBONA Claver
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Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to “sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

All political parties have the same coverage in the private media (more independent), but the ruling political party occupied more time than the other parties on state media (government-owned).

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

Political parties of the opposition do not have the same coverage as the ruling party. The ruling party has more time than others.

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes | No

Comments:

There were no journalists imprisoned related to work covering corruption during the study period.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: Oct. 30,2011, 14h bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: Nov. 02, 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

Yes: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

No: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist’s work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. “Imprisoned” is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes

No

Comments:

there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

Yes: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

No: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes

No

Comments:

Despite intense harassment and legal threats, there were no documented cases of killed journalists in relation to their work.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Yes: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

No: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

94 1.3. Public Requests for Government Information

12. Do citizens have a legal right to request information?

33

12a. In law, citizens have a right to request government information and basic government records.

Yes

No

Comments:

There is no Freedom of Information (FOI) law, but a Freedom of the Press Law provides access to some government records and data, according to a 2011 study by the International Records Management Trust. The Freedom of the Press Law, n°1/025, 2003: Governing the Press in Burundi, describes the information and data that are openly available for consultation.

References:

The African Charter on Human and Peoples' Rights which Burundi has ratified confirms in its Article 9 of Law as follows:
1. Everyone has the right to information.
2. Everyone has the right to express and disseminate his opinions within the framework of laws and regulations.

2011 Country Report by International Records Management Trust (<http://irmt.org/portfolio/managing-records-reliable-evidence-ict-e-government-freedom-information-east-africa-2010-2011>).

Yes: A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

No: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes

No

Comments:

“... .. we notice the lack of legal framework on access to public services and the legal framework for access to administrative information.”

References:

Observatory of Government Action (OAG) approved under the Ministerial Order Nr. 530/023 12 January 2001.
www.oag.bi

Title: “Analysis of the problem of access to administrative information and public services in Burundi”
Bujumbura, June 2011, page 19, paragraph 2.

Yes: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

No: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes

No

References:

Recommendation No. 1 to the Government:

– Enact a law on access to information and on access to public services.

Source

Observatory of Government Action (OAG) approved under the Ministerial Order Nr. 530/023 12 January 2001.
www.oag.bi

Title “Analysis of the problem of access to administrative information and public services in Burundi”
Bujumbura, June 2011, page 20;

Yes: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

No: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right to information requests effective?

54

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the Analysis of the problem of access to administrative information and public services in Burundi, "... access to public services and administrative information is conditioned largely by neo-patrimonial practices of corruption and cronyism..." "Institutions have no formal records management programmes, which makes it very difficult to find the records needed to answer the requests, according to a report by International Records Management Trust.

References:

"Analysis of the problem of access to administrative information and public services in Burundi." Bujumbura, June 2011, page 45, paragraph 5. Observatory of Government Action (OAG) approved under the Ministerial Order Nr. 530/023 12 January 2001 (www.oag.bi).

2011 Country Report by International Records Management Trust (<http://irmt.org/portfolio/managing-records-reliable-evidence-ict-e-government-freedom-information-east-africa-2010---2011>).

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Obtaining public information is very difficult, even for the media.

References:

“Analysis of the problem of access to administrative information and public services in Burundi.” Bujumbura, June 2011, page 45, paragraph 5. Observatory of Government Action (OAG) approved under the Ministerial Order Nr. 530/023 12 January 2001 (www.oag.bi).

2011 Country Report by International Records Management Trust (<http://irmt.org/portfolio/managing-records-reliable-evidence-ict-e-government-freedom-information-east-africa-2010---2011>).

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | **25** | 0

Comments:

According to the “Analysis of the problem of access to administrative information and public services in Burundi”, the survey population is not satisfied with public services, including access to information.

References:

“Analysis of the problem of access to administrative information and public services in Burundi.” Bujumbura, June 2011, page 45, paragraph 5. Observatory of Government Action (OAG) approved under the Ministerial Order Nr. 530/023 12 January 2001 (www.oag.bi).

2011 Country Report by International Records Management Trust (<http://irmt.org/portfolio/managing-records-reliable-evidence-ict-e-government-freedom-information-east-africa-2010---2011>).

100: Responses to information requests typically address the requestor’s questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

entity acts on appeals quickly but with some exceptions

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

contradictory, if no law and no access, how come there's an appeal process that deserves a 100 score?

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

The government always discloses to the requestor the specific, formal reasons for denying information requests

References:

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

2.1. Voting and Party Formation

14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes

No

Comments:

Electoral Code , Article 2 states: The suffrage is universal, equal, secret, free and transparent. It can be direct or indirect as provided for each type of election

References:

Electoral Code , Article 2.

Yes: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

No: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes

No

Comments:

Constitution of the Republic of Burundi Article 96 states:

“The President of the Republic is elected by direct universal suffrage for a term of five years renewable once”

References:

Constitution of the Republic of Burundi

Article 96

Yes: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

No: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

83

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

Every citizen can vote, except prisoners and minors.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

Elections in Burundi can be tense and lack competition, but citizens are able to exercise their vote, according to observers.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

EU Deplores Absence of Competition in Burundi, June 2010. EUBusiness.com (<http://www.eubusiness.com/news-eu/burundi-vote.5dy>).

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | **50** | 25 | 0

Comments:

Elections are normally held according to a regular schedule, but there have been recent exceptions. For example, in 2010 local elections were postponed by two days because of a delay in distributing ballots.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Burundi Elections Postponed, May 2010. Radio France International (<http://www.english.rfi.fr/africa/20100521-burundi-elections-postponed-hrw-researcher-banished>).

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

70

16a. In law, all citizens have a right to form political parties.

Yes

No

Comments:

Law No. 1 / 16 of September 10, 2011 Revision of Law No. 1 / 006 of 26 June 2003 on the organization and functioning of political parties,

Article 7 Any Burundi over the age of eighteen years old and enjoying his civil and political rights may join a political party. This membership is free and individual.

Electoral Code, Article 4: All citizens of Burundi both genders, aged eighteen years at the election day, enjoying their civil and political rights and not being in one case disability election under this Code.

References:

Law No. 1 / 16 of September 10, 2011 Revision of Law No. 1 / 006 of 26 June 2003, Article 7.

Electoral Code, Article 4.

Yes: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

No: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

Yes

No

Comments:

Law No. 1 / 16 of September 10, 2011 Revision of Law No. 1 / 006 of 26 June 2003 on the organization and functioning of political parties,

Article 7 Any Burundi over the age of eighteen years old and enjoying his civil and political rights may join a political party. This membership is free and individual.

Electoral Code, Article 4: All citizens of Burundi both genders, aged eighteen years at the election day, enjoying their civil and political rights and not being in one case disability election under this Code.

References:

Law No. 1 / 16 of September 10, 2011 Revision of Law No. 1 / 006 of 26 June 2003, Article 7.

Electoral Code, Article 4.

Yes: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

No: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

While there is no guarantee of electoral success, political parties can form freely without opposition.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. An example of a significant obstacle is the cost of running a political campaign, as it results in dissuading some candidates from running for office. International observers have pointed at the use of government resources in benefit of the incumbent party, and opposition parties have repeatedly denounced intimidation and harassment.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

EU Deplores Absence of Competition in Burundi, June 2010. EUBusiness.com (<http://www.eubusiness.com/news-eu/burundi-vote.5dy>).

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver

Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

2.2. Election Integrity

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes

No

Comments:

Electoral Code, Article 3: An Independent Electoral Commission whose missions and composition determined by the Constitution guarantees freedom, impartiality and independence of electoral process. Its mandate, organization and operation are determined by Presidential Decree

References:

Electoral Code, Article 3.

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

No: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

18. Is the election monitoring agency effective?

80

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes

No

Comments:

Decree Law No. 100/22 of 20 February 2009 on the organization and operation of the Independent National Electoral Commission.
Article 18

The committee members referred to in Articles 5.16 and 17 of this Decree must meet the criteria of integrity, impartiality and patriotism.

References:

Decree Law No. 100/22 of 20 February 2009, Article 18.

Yes: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100

75

50

25

0

Comments:

Members of the National Commission have professional skills and have been appointed from compromises of political parties; but the appointments of the Commission (2009) generated criticism after the appointment of a former minister whom the opposition consider a member of the ruling party. EU observers said in 2010 that the commission said the opposition has lost confidence in the electoral commission.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

Le parlement burundais approuve les membres de la Commission électorale nationale indépendante, April 2009. Jeune Afrique (<http://www.jeuneafrique.com/Article/DEPAPA88841/parlement-burundi-electionle-parlement-burundais-approuve-les-membres-de-la-commission-electorale-nationale-independante.html>).

EU Deplores Absence of Competition in Burundi, June 2010. EUBusiness.com (<http://www.eubusiness.com/news-eu/burundi-vote.5dy>).

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

Comments:

The independent commission has staff sufficient to fulfill its basic mandate and it represented in the 17 provinces of Burundi by 129 communal commissions (each with five members appointed for periods of one year).

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Commission Electorale Nationale Indépendante website (CENI)(<http://www.ceniburundi.bi/Organisation-missions-et>).

Electoral Institute for the Sustainability of Democracy in Africa, Burundi section (http://74.6.238.254/search/srpcache?ei=UTF-8&p=burundi+ceni+appointment&fr=aaplw&u=http://cc.bingj.com/cache.aspx?q=burundi+ceni+appointment&d=4832362645948398&mkt=en-US&setlang=en-US&w=3322bc8d,88e16d84&icp=1&.intl=us&sig=fHZIW4i5NHW4bj9_d7pzog-).

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

Reports are periodically released to the public, in addition to the publication of frequent public statements available online.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Pascal NIYOYANKUNZE;

Journalist and deputy editor in chief of Radio Publique Africaine

Venue: Radio Publique Africaine

Date: October 14 to 15h

Commission Electorale Nationale Indépendante website (CENI)(<http://www.ceniburundi.bi/>).

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The commission may take action to annul irregular decisions related to irregular appointments and/or decisions in the communal offices boards, but there's a lack of sanctions related to tougher issues such as harassment of the opposition. "In many parts of the country, local administrations are controlled by the ruling Conseil national pour la défense de la démocratie – Forces de défense de la démocratie (CNDD-FDD). These local administrations order the police to disrupt opposition party gatherings and block them from opening local offices. At the same time, civil society organisations and some media are harassed for denouncing the ruling party's authoritarian tendencies," according to the International Crisis Group.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Commission Electorale Nationale Indépendante website (CENI) (<http://www.ceniburundi.bi/-Communique->).

Burundi: Ensuring Credible Elections, Feb 2010, International Crisis Group (<http://allafrica.com/stories/201003050655.html>).

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

92

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

The registration system is transparent. The process is clear and provides national identity cards for free to voters to allow the poorest people to register without problem.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and "ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

Yes | No

Comments:

ELECTORAL CODE

Article 85: The Constitutional Court has jurisdiction to hear appeals in the presidential, legislative and referendum.

Article 86: The Constitutional Court can be seized only by a written request. This request must be received at the Registry of the Court within ten days after the announcement of election results.

The right to contest an election is for the parties concerned, to all persons registered as voters in the constituency concerned.

References:

ELECTORAL CODE

Article 85, Article 86.

Yes: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

No: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

Comments:

Any appeals are addressed to the Provincial Independent Electoral Commission within four business days after the announcement of provisional results. Provincial Independent Electoral Commission decides within 6 working days and its decision is without appeal. The final results are announced and sent to the Independent National Electoral Commission.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

Comments:

Defense forces and security in Burundi remained neutral during the elections, though some exceptions were registered during the campaign because of political manipulation.

"In many parts of the country, local administrations are controlled by the ruling Conseil national pour la défense de la démocratie – Forces de défense de la démocratie (CNDD-FDD). These local administrations order the police to disrupt opposition party gatherings and block them from opening local offices. At the same time, civil society organisations and some media are harassed for denouncing the ruling party's authoritarian tendencies," according to the International Crisis Group.

References:

Alexandre Niyungeko
Burundian President of the Union of Journalists
Chief editor of the national radio and television of Burundi
Location: Head Office in Burundi as part of the social audit
Date: November 21, 2011 at 10am

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

Burundi: Ensuring Credible Elections, Feb 2010, International Crisis Group (<http://allafrica.com/stories/201003050655.html>).

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes | No

Comments:

Electoral Code, Article 41: Each candidate, each list of independent candidates or independent candidate as each case has the right to control the whole electoral process including verification of quality and quantity of the voting equipment since the opening of polling station until the counting.

The control exercised by agents appointed for this purpose by each political party, each candidate or list of candidates. Agents are equipped with special cards issued by the Provincial Independent Electoral Commission.

References:

Electoral Code, Article 41.

Yes: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

No: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

Election observers have unfettered access to polling sites, counting stations, etc. In 2010, EU observers were able to freely observe the election.

References:

Pascal NIYOYANKUNZE;
Journalist and deputy editor in chief of Radio Publique Africaine
Venue: Radio Publique Africaine
Date: October 14 to 15h

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

EU Deplores Absence of Competition in Burundi, June 2010. EUBusiness.com (<http://www.eubusiness.com/news-eu/burundi-vote.5dy>).

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

91
2.3. Political Financing Transparency

20. Are there regulations governing the financing of political parties?

67

20a. In law, there are limits on individual donations to political parties.

Yes

No

Comments:

Law No. 1 / 16 of the 10 September 2011 on the organization of political parties in Burundi, Article 20 states: Individuals of Burundian nationality can do are gifts to political parties in the form of gifts or bequests, provided the legal origin of these gifts can be established.

References:

Law No. 1 / 16 of the 10 September 2011, Article 20.

Yes: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

No: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes

No

Comments:

Constitution of the Republic of Burundi, Article 83 states:

“External financing of political parties is prohibited unless special dispensation established by law.

Any funding to undermine the independence and national sovereignty is prohibited. The law defines and organizes the funding of political parties. “

References:

Constitution of the Republic of Burundi
Article 83.

Yes: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

No: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

Yes | No

Comments:

Article 43 of the Act no1/16 of September 10, 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties states: "The funding of political parties must have a legal origin and be used exclusively for carrying out their purpose "

References:

Article 43 of the Act no1/16 of September 10, 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties.

Yes: A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

No: A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | No

Comments:

Article 41 of Law no1/16 of September 10, 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties states: "Every political party shall keep proper accounts and an annual inventory of property and buildings. Every political party shall submit in March with its annual accounts with the Finance Ministers and within their powers. It must be able to justify the source of its financial resources and their use. "

References:

Article 41 of Law no1/16 of September 10, 2011 amending the Act No. 1 / 006 of 2003.

Yes: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

No: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

Comments:

No specific law on the duty of the audit of finances and expenditures of political parties

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes

No

Comments:

There is no agency or entity that monitors the financing of political parties.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

No: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

21. Are there regulations governing the financing of individual political candidates?

80

21a. In law, there are limits on individual donations to political candidates.

Yes | No

Comments:

Article19 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties states: "The external financing of political parties is prohibited. It is admitted that in case of participation of members of these fora for training abroad, such as seminars, symposia, workshops and internships. "

References:

Article19 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003.

Yes: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

No: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | No

Comments:

Article19 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties states: "The external financing of political parties is prohibited. It is admitted that in case of participation of members of these fora for training abroad, such as seminars, symposia, workshops and internships. "

References:

Article19 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003.

Yes: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

No: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | No

Comments:

Article 41 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties states: Every political party must keep proper accounts and an annual inventory of movable and immovable property. Every political party shall submit in March with its annual accounts with the Finance Ministers and within their powers. It must be able to justify the source of its financial resources and their use.

References:

Article 41 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003.

Yes: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

No: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | No

References:

Article 41 of the Law no1/16 of 10 September 2011 amending the Act No. 1 / 006 of 2003 on the organization and functioning of political parties: " Every political party must keep proper accounts and an annual inventory of movable and immovable property. Every political party shall submit in March with its annual accounts with the Finance Ministers and within their powers. It must be able to justify the source of its financial resources and their use".

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | No

Comments:

There is no agency or entity that monitors campaign finance individual political candidates.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

No: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

22. Are the regulations governing the political financing of parties effective?

0

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

The government does not require political parties their funding sources.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Financing of private enterprises to political parties are not limited because the government does not care about financial resources.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

there are no limits. Each political party is free to spend his money.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There isn't a legal body responsible for monitoring the funding of political parties.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

No agency to monitor in practice the funding of political parties.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

Party finances are not audited.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

Comments:

The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

Comments:

The majority of corporate contributions to individual candidates are made outside of the formal limitation system

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations);

or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

.no agency to monitor in practice the funding of political parties

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

No agency to our knowledge the following or has followed the funding of political candidates or political parties

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:

The finances of individual candidates's campaigns are not audited.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

13

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

Some political parties don't give timely financial reports, as required by law.

References:

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Since parties don't frequently release financial data, citizens can rarely have access to it.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens have no access to financial records of political parties while some political parties do not have the financial records.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Party financial records aren't accessible to the public.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Individual candidates never publish their sources of funding or expenditures .

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura

100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens have no access to financial records of candidates

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens have no access to financial records of independent candidates

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

The financial records of candidates' campaigns are not published to be of high quality.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

3.1. Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes

No

Comments:

Article 23 of the Constitution of Burundi states:

“No one will be treated in an arbitrary manner by the State or its organs.
The State has the obligation to compensate any victim of arbitrary treatment of the fact or the fact of its organs»

References:

Article 23 of the Constitution of Burundi

Yes: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

No: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

27. Can the chief executive be held accountable for his/her actions?

44

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100

75

50

25

0

Comments:

The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way.

References:

Master NDIKUMANA Placide counsel, Office of the Master Deo NDIKUMANA, November 02, 2011

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes | No

References:

Article 60 of the organization and jurisdiction: the Administrative Court is an example

Yes: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

No: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

– the judiciary does not examine the actions of the executive.

The judiciary is established by the Executive then the judiciary is not independent in making decisions and then the President of the Republic, he is the Chairman of the Judiciary

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
9H30 bujumbura time

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

-The chief can not limit the executive orders for establishing new regulations government policies or practices. If the chief appears impressive, it is likely to be returned.

References:

Source: Alice Hajayandi, Bar Association of Burundi; Project Office and Defense Council, Place: Office of the Project Office of Defense Council, 26 /10/2011, Bujumbura time

Source: Fleury Ntwari, Lawyer at the Court of Appeal of Bujumbura, 29 / 10 / 2011, 30 Bujumbura time

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | **No**

Comments:

Given that they have immunity, they can in no case be continued until the immunity is not waived. As against the President of the Republic may be prosecuted for high treason, it is the only offense that can be made by the President of the Republic.

References:

Source: Fleury Ntwari
 Lawyer at the Court of Appeal of Bujumbura
 Location: Cabinet
 Date: 29 / 10 / 2011
 Time: 11H 30

Source: Alice Hajayandi,
 Bar Association of Burundi; Project Office and Defense Council
 Place: Office of the Project Office of Defense Council
 Date : 26 /10/2011
 Time : 9H30

Yes: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | No

References:

Law 1 / 05 of April 22, 2009 revising the penal code. Title IV and V, Chapter I.

Yes: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

No: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | No

Comments:

Article 73 of the Constitution of Burundi states:” When they take office and at the end thereof, the President of the Republic, the Vice-president of the Republic and members of government are required to honor their written declaration their property and assets sent to the competent jurisdiction”.

References:

Article 73 of the Constitution of Burundi.

Yes: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

Comments:

Article 73 of the Constitution of Burundi states:” When they take office and at the end thereof, the President of the Republic, the Vice-president of the Republic and members of government are required to honor their written declaration their property and assets sent to the competent jurisdiction”.

References:

Article 73 of the Constitution of Burundi.

Yes: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

No: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | **No**

Comments:

No specific law governing gifts and hospitality offered to members of the executive.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

No: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes | No

References:

No1/002 law of 31 March 2004 on the establishment, tasks, organization and functioning of the Court of Auditors

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes | **No**

Comments:

There is no restriction that the heads of states / governments take position in the private sector.

References:

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30

Yes: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

The regulations restricting post-government employment in the private sector for Heads of State and Government and ministers beyond the financial resources of the country.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
Time : 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

Executive branch asset disclosures are not audited, or the audits performed have no value.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes

No

Comments:

Article No30 no1/12 the law of 18 April 2006 on measures for preventing and combating corruption and related offenses reads: The statement is received by the Judicial Chamber of the Supreme Court and confidential

References:

Article No30 no1/12 the law of 18 April 2006.

Yes: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

No: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

It is almost impossible to have access to these documents as they are declared confidential.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
Time : 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The law prohibits the publication of declaration of assets of Heads of State.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Asset disclosures are not available to the public.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

25

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

Comments:

Use of government resources in benefit of the ruling party is common. "CNDD-FDD's election campaign relied in part on bribery and use of state resources, along with intimidation. Police shut down the meetings of some opposition parties and arrested some activists," according to a Human Rights Watch 2011 report.

European Union observers noted in 2010 that the ruling party used state resources with impunity throughout its electoral campaign.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
Time : 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30

Human Rights Watch, 2011 Report (<http://www.hrw.org/world-report-2011/burundi>).

EU deplores absence of competition in Burundi vote, June 2010, EUBusiness.com (<http://www.eubusiness.com/news-eu/burundi-vote.5dy/>).

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

32. Can members of the legislature be held accountable for their actions?

83

32a. In law, the judiciary can review laws passed by the legislature.

Yes

No

Comments:

Constitution of the Republic of Burundi, Article 161, states that the texts prescribed form intervened in matters within the scope of the law can be changed by legislation after opinion of the Constitutional Court.

References:

Constitution of the Republic of Burundi
Article 161.

Yes: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

No: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100

75

50

25

0

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes

No

Comments:

Deputies and senators are amenable to the Supreme Court under the law governing it and those on the code of the organization and jurisdiction.

References:

Constitution of the Republic of Burundi

Article 151

Yes: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

No: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

18

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes | No

Comments:

"When taking office and at the end of it, the Officers of the National Assembly and Senate are required to honor the written statement of their property and assets sent to the Supreme Court".

References:

Constitution of the Republic of Burundi. Article 154

Yes: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

No: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes | No

Comments:

No restrictions for national legislators entering the private sector after leaving government.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

No: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes | No

Comments:

No specific law governing gifts and hospitality offered to members of the national legislature.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

No: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes | No

Comments:

No specific law governing the independent monitoring of asset disclosure forms of members of the national legislature.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

Legislators are not restricted from entering the private sector after their tenure.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

There is no rule prohibiting legislators from accepting gifts and hospitality they offer.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury

counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

The document containing the active members of the legislature is not published.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
Time : 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

34. Can citizens access the asset disclosure records of members of the national legislature?

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | **No**

Comments:

Article 30 of the Law No. 1/12 of 2006 states that financial disclosure reports are received by the judicial chamber of the Supreme Court in a confidential manner. In law, citizens do not have access to the disclosures.

References:

Article 30 of the Law Number 1/12 of 18 April 18 2006.

Yes: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

No: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

No, because the document is not officially released.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
Time : 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens do not have access to these documents.

References:

Bar Association of Burundi; Project Office and Defense Council

Place: Office of the Project Office of Defense Council

Date : 26 /10/2011

Time : 9H30

Source: Fleury Ntwari

Lawyer at the Court of Appeal of Bujumbura

Location: Cabinet

Date: 29 / 10 / 2011

Time: 11H 30

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

The asset disclosures are not available to citizens so it is not possible to discern quality.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

0

35a. In law, citizens can access records of legislative processes and documents.

Yes

No

Comments:

No specific law that allows access to records of legislative processes and documents by citizens.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

No: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25

3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

36. Are judges appointed fairly?

75

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes

No

Comments:

"..... The recruitment procedures and appointment in the judiciary is essential to obey order to promote balanced regional, ethnic and gender balance."

References:

Constitution of the Republic of Burundi
Article 208.

Yes: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

No: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

The criterion of selection considers membership of a political party, particularly the party that won the election.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date : 26 /10/2011
Time : 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30, Bujumbura Time

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | No

Comments:

“Any judicial appointment as referred to in section 188.9, except the Constitutional Court, is made by the President of the Republic on proposal of the Minister having Justice in his duties, after consultation with the Superior Council of Magistracy and confirmation by the Senate “

References:

Constitution of the Republic of Burundi
Article 215

Yes: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

No: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37. Can members of the judiciary be held accountable for their actions?

50

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

Comments:

“Any judicial decision must be justified before being pronounced in public.”

References:

Constitution of the Republic of Burundi
Article

Yes: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

No: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

Comments:

Interviewees agreed that decisions oftentimes are arbitrary.

References:

Source: Alice Hajayandi,
Bar Association of Burundi; Project Office and Defense Council
Place: Office of the Project Office of Defense Council
Date: 26 /10/2011
Time: 9H30

Source: Fleury Ntwari
Lawyer at the Court of Appeal of Bujumbura
Location: Cabinet
Date: 29 / 10 / 2011
Time: 11H 30 , Bujumbura Time

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

Comments:

“The Supreme Council of Magistracy is the highest disciplinary authority of the Judiciary”

References:

Constitution of the Republic of Burundi
section 211.

Yes: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

No: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes

No

Comments:

Article 209 of the Constitution of the Republic of Burundi states that “The judiciary is impartial and independent of the legislature and the executive “

References:

Constitution of the Republic of Burundi

Article 209

“The judiciary is impartial and independent of the legislature and the executive “

Yes: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

No: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100

75

50

25

0

Comments:

The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

References:

NTWARI Fleury and NDIKUMANA Placide, counsel, Office of the Master Deo NDIKUMANA, November 02, 2011, October 30, 2011

IRAMBONA Claver, Responsible for listening, monitoring and evaluation, NGO: Centre for fight against corruption and economic mismanagement, November 22, 2011, 10h Bujumbura

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

0

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | **No**

Comments:

No specific law requiring members of the judiciary to disclose their assets.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

No: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | **No**

Comments:

No specific law governing gifts and hospitality offered to members of the judiciary.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

No: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | **No**

Comments:

No specific law that governs independent monitoring of asset disclosure forms of members of the judiciary

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | **No**

Comments:

No specific law governing restrictions for judges at national level within the private sector after leaving government.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

No: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

Comments:

There is no restriction on the judges' employment after their time on the bench.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

Comments:

There are no rules governing donations of gifts and hospitality of the members of the judiciary.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury

counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Cooling off periods are non-existent or never enforced.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | **No**

Comments:

No specific law governing the disclosure of assets of members of the judiciary at the national level.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

No: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Citizens do not have access to court records disclosure of assets.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens do not have access to court records disclosure of assets.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

3.4. Budget Process Oversight & Transparency

40. Can the legislature provide input to the national budget?

67

40a. In law, the legislature can amend the budget.

Yes

No

Comments:

"... The National Assembly and the Senate have the right to debate, proposed amendments to bills or rejected bills introduced by the Government."

References:

Article 194 of the Constitution of Burundi:

Yes: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

No: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | **50** | 25 | 0

Comments:

There is public spending that the government makes laws without contact

References:

BARUTWANAYO Parfait; Academic Director at the University Wisdom of Africa "Université Sagesse d'Afrique"

date: 29 october, 2011; 16h bujumbura time

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | **50** | 25 | 0

Comments:

There is a failure in monitoring the use of public budget.

References:

BARUTWANAYO Parfait; Academic Director at the University Wisdom of Africa "Université Sagesse d'Afrique"

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

33

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

There's a lack of participation in the budget process, and even members of the National Assembly may not have enough time to discuss the national budget.

References:

Parfait BARUTWANAYO : Academic department head at the University of wisdom Africa
October 22, 2011 at 13h 45 minutes, Bujumbura time

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access these documents after approval the General Assembly.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

100: Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

42. In law, is there a separate legislative committee which provides oversight of public funds?

100

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes

No

Comments:

The Committee of Public Accounts and Finance, Economic Affairs and Planning

References:

Article 30 of the internal regulations of the National Assembly

Yes: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

No: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

43. Is the legislative committee overseeing the expenditure of public funds effective?

50

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

The committee is comprised of legislators from both the ruling party (or parties) and opposition parties, although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | **50** | 25 | 0

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category 4. Public Administration and Professionalism

4.1. ⁷⁴Civil Service: Conflicts of Interest Safeguards and Political Independence

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes

No

Comments:

“No officer of the public administration or the judiciary of the State is not eligible for preferential treatment or be a partial treatment solely because of gender, ethnic origin and regional or political affiliation. “

References:

Article 145 of the Constitution of Burundi

Yes: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

No: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes

No

Comments:

Article 54 of the Constitution of Burundi states:

“The State recognizes that all citizens the right to work and strives to create conditions that make the enjoyment of this right effective. It recognizes the right of everyone to the enjoyment of working conditions and ensure fair and satisfactory to the worker the fair compensation for his services or production.”

Decree Law No. 1-037 of 7 July 93 Burundian Labour Code Article 6 states:

“The law provides everyone with equal opportunity and treatment in employment and in work, without any discrimination. It opposes any distinction, exclusion or preference based on race, color, religion, sex, political opinion, trade union activity, ethnicity or social in terms of hiring, promotion, compensation, and breach of contract “

References:

Article 54 of the Constitution of Burundi

Decree Law No. 1-037 of 7 July 93 Burundian Labour Code Article 6.

Yes: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

No: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes

No

Comments:

Subject to other provisions of this code, the labor courts also experience:

- a) individual or collective disputes arising in the course of work between workers and their employers, public and private contracts relating to employment or apprenticeship, collective agreements or administrative decisions that take place.
- b) Disputes arising in the course of work between workers or between employers under the provisions of the Labour Code.
- c) disputes arising between the institutions of social security, workers and employers on the implementation of legislation on social security but without prejudice to the provisions of this legislation in that they are competent institution of special commissions to deal certain categories of disputes.

References:

Decree Law No. 1-037 of 7 July 93 Burundian of the Labor Code Article 179

Yes: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism’s decisions to the judiciary.

No: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes

No

Comments:

Article 67 of Law No. 1 / 12 of 18 April 2006 concerning the prevention and repression, corruption and related offenses.

Paragraphs 3

“... .. The prohibition for a period of ten to more than hold public office or to exercise professional or social function in the exercise or during the course of which the offense was committed. ... ”

References:

Article 67 of Law No. 1 / 12 of 18 April 2006 Concerning the Prevention and Repression, Corruption and Related Offenses.

Paragraphs 3.

Yes: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

No: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

50

45a. In practice, civil servants are protected from political interference.

100

75

50

25

0

Comments:

The occupation of posts by the workers of the public service depends on their membership of political parties.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”

date: oct. 30,2011 , 14h bujumbura time;

Office : Framework for Burundi Social Audit”

Perfect BARUTWANAYO;

Academic Director at the University Wisdom of Africa: Bujumbura

Location: Framework for Burundi Social Audit

Date: November 11, 2011 at 17h

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.

date: nov.02; 2011, 08h Bujumbura time

Office : Framework for Burundi Social Audit”

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

People are appointed without regard to their professional qualification and the decisions are mainly based on their political affiliation or knowledge.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérènce ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

References:

– HABONIMANA Thérèse ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

IRAMBONA Claver

Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

There are positions that are clear and others that are created for political reasons.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
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Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
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Date: November 22, 2011 in 16h Bujumbura time

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Some bonuses are awarded in order to give some public servants indirect advantages.

References:

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

– HABONIMANA Thérènce ; Communication Officer in the NGO "Framework for Burundi Social Audit".
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit".

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

The government does not publish vacancies post.
The positions are filled based on knowledge or political corruption.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

Civil services report cases of malpractice carried out by some public servants

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

In the past year, some civil servants have been paid late. They are supposed to receive payment after fifteen days.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

In most cases, the officials convicted of corruption hold important positions in government.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

44

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes

No

Comments:

“Any public officer or agent who, because of its quality, its title or function, is one of the categories defined by this chapter, shall make a declaration of his assets to the court of appeal or the High Court according to his rank”

References:

Law No. 1 / 12 of 18 April 2006 Concerning the Prevention and Repression, Corruption and Related Offenses, Article 32.

Yes: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

No: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes | **No**

Comments:

there is no specific law in this area.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

No: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | No

References:

Constitution of the Republic of Burundi Section 32

"The freedom of assembly and association is guaranteed, as well as the right to form associations or organizations in accordance with law."

Yes: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

No: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | **No**

Comments:

no specific law governing gifts to officials

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

No: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | No

References:

Article 31 of Law No. 1 / 12 of 18 April 2006 concerning measures of prevention and repression, corruption and related crimes;
“..... The statement is received in confidence. “

Article 36 Bis

“The staff of the Supreme Court and other courts depository statements of assets is required to maintain the confidentiality and secrecy on their activities.”

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

Comments:

They can even enter the private sector as members of the government. The second Vice President of the Republic, Gabriel Ntisezerana, was in the oil industry while being at the top of government.

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate “cooling off” period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

Comments:

– Sometimes it's not the beneficiaries who receive these gift

References:

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | **50** | 25 | 0

Comments:

– They are effective despite the lack of will in their application.

References:

Master NTWARI Fleury
counsel

Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | **50** | 25 | 0

Comments:

Civil service asset disclosures are audited, but audits are limited in some way

References:

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | **No**

References:

Article 31 of Law No. 1 / 12 of 18 April 2006 concerning measures of prevention and repression, corruption and related crimes; “..... The statement is received in confidence. “

Article 36 Bis

“The staff of the Supreme Court and other courts depository statements of assets is required to maintain the confidentiality and secrecy on their activities. “

Yes: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

No: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The documents are not published

References:

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

Comments:

The secret is a disclosure law, it is almost impossible to access these documents. even the statements are false.

References:

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

Comments:

The secret is a disclosure law, it is almost impossible to access these documents. even the statements are false.

References:

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

75

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

Comments:

Article 12 Article 31 of of Law No. 1 / 12 of 18 April 2006 concerning measures of prevention and repression, corruption and related crimes

During the investigation, the investigation and trial, the competent authority to offenses under this Act, shall take all necessary measures to protect the following persons:

1 ° The people who gave information about the offenses under this Act or who provided any assistance or have worked with the competent authorities for investigation or prosecution;

2 ° or witnesses for the defense.

References:

Article 12 Article 31 of of Law No. 1 / 12 of 18 April 2006 Concerning Measures of Prevention and Repression, Corruption and Related Crimes.

Yes: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

No: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

Comments:

– Due to the lack of necessary measures to protect the person holding the information.

References:

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | No

Comments:

Article 12 Article 31 of Law No. 1 / 12 of 18 April 2006 concerning the prevention and repression, corruption and related offenses
During the investigation, the investigation and trial, the competent authority to offenses under this Act, shall take all necessary measures to protect the following persons:

1 ° The people who gave information about the offenses under this Act or who provided any assistance or have worked with the competent authorities for investigation or prosecution;

2 ° Witnesses

References:

Article 12 Article 31 of Law No. 1 / 12 of 18 April 2006 concerning the prevention and repression, corruption and related offenses.

Yes: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

No: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

References:

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes

No

Comments:

There is a toll free 257 22 25 20 20 78853004 or established by OLUCOME to denounce cases of embezzlement and corruption.
Source: Observatory for the Fight against Corruption and economic mismanagement.
Website: www.olucome.bi

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.
IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

No: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

75

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 11, 2011 at 17h

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time
office : Framework for Burundi Social Audit”.

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The budget of the anti-corruption brigade is published in the annual budget of the state.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérènce ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.
IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

The speed often depends on the influence of guilty or politically dependent relationships that meeting with senior officials of the State.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.
IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Comments:

Investigations are initiated in cases of corruption

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
 date: oct. 30,2011 , 14h bujumbura time
 office : Framework for Burundi Social Audit”.

– HABONIMANA Thérènce ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
 date: nov.02; 2011, 08h Bujumbura time
 office : Framework for Burundi Social Audit”.
 IRAMBONA Claver
 Responsible for listening, monitoring and evaluation
 NGO: Centre for fight against corruption and economic mismanagement
 Location: Office of the organization
 Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
 Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
 Location: organization headquarters
 Date: November 22, 2011 in 16h Bujumbura time

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies’ investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards

51. Is the public procurement process effective?

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes | No

Comments:

Article 142 of the Code and laws of Burundi, Title VII, Book III

“The representatives and members of the contracting authority, the Administration, the authorities responsible for control and regulation of public contracts and public service delegations, and more generally, all legal persons of public law and private law and any person acting in any capacity whatsoever in the chain of procurement and outsourcing of public services, or on behalf of a Contracting Authority or on behalf of an approval Authority, control or regulation are subject to the laws and regulations prohibiting fraudulent practices and conflicts of interest in the procurement or outsourcing of public services. “

References:

Article 142 of the Code and laws of Burundi, Title VII, Book III.

Yes: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

No: A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes | No

References:

Article 14 of the Code and laws of Burundi, Title VII, Book III

e. initiate, in cooperation with the National Control Procurement, training, advocacy and information for traders and institutions involved in public procurement and the public service delegations on the regulatory framework and institutional procurement, particularly through the regular publication of a
f. official journal of public procurement

Yes: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

No: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

In most cases, public procurement bidders are parents of procurement officials or members of the party whose responsible for the procurement spring.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes

No

Comments:

Article 35 Law No. 1 / 12 of 18 April 2006 on measures to prevent st of combating corruption and related offenses:
“The obligation to report to the competent court for further , and the responsible officers or agents personally or as part of a collective body, or the expression of opinion on the markets or contract of any nature, past by legal persons of public law, or the award or award of such contracts or contracts or the supervision or control of their execution. This is true especially of those carrying out these functions in the committees provided for in the general conditions applying to public and those with the status of official leader in the same specification....”

References:

Article 35 Law No. 1 / 12 of 18 April 2006 on measures to prevent st of combating corruption and related offenses:
“The obligation to report to the competent court for further , and the responsible officers or agents personally or as part of a collective body, or the expression of opinion on the markets or contract of any nature, past by legal persons of public law, or the award or award of such contracts or contracts or the supervision or control of their execution. This is true especially of those carrying out these functions in the committees provided for in the general conditions applying to public and those with the status of official leader in the same specification....”

Yes: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

No: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

Yes | No

References:

Article.16 Code and laws of Burundi in 2010, Title VII Volume III

“Contracting authorities make known, by means of a notice of tender, the essential characteristics of works, supplies and services which they intend to in the past year and in amounts equal or exceed the thresholds procurement “

Yes: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

No: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | No

Comments:

“A market mutual agreement or by private treaty as it passed without competition, after special permission of the Management Control of Public Procurement authority confirming that the legal conditions are met. The application for leave to appeal to this procedure must describe the reasons therefor. “

References:

Article 39 of the Code and laws of Burundi, Title VII, Book III

Yes: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

No: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

Comments:

"The candidates and tenderers who consider themselves unjustly ousted procedures for the award of public contracts and public service delegations can introduce an effective remedy prior against the decisions and procedures in connection with the procurement process their causing injury to the person responsible for the procurement "

References:

Art.132 of the Code and laws of Burundi, Title VII, Book III

Yes: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

No: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes | No

Comments:

"..... Decisions of the Committee of dispute resolution may be appealed before a judicial body

References:

Article 137 of the Code and laws of Burundi, Title VII, Book III

Yes: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

No: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes | No

References:

Article 144 of the Code and laws of Burundi, Title VII, Book III

"..... The following sanctions may be imposed, and, as appropriate, cumulatively the bidders applicants and holders of public contracts The exclusion of competition for a term temporary or permanent depending on the severity of the misconduct, including, in case of collusion established by the regulatory body of any company that owns the majority stake in the company sanctioned, or which the company has sanctioned the majority of the capital

Yes: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

No: A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

In practice, there are cases where the rule is broken, some companies may continue to participate in bidding for future purchases because their leaders are influential members of the governing party.

References:

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

79

52a. In law, citizens can access public procurement regulations.

Yes | No

References:

Article 14 of the Code and laws of Burundi, Title VII, Book III

- e. initiate, in cooperation with the National Control Procurement, training, advocacy and information for traders and institutions involved in public procurement and the public service delegations on the regulatory framework and institutional procurement, particularly through the regular publication of a
- f. official journal of public procurement

Yes: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

No: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

Comments:

Article 68 of the Code and laws of Burundi, title VII Volume III
The award is notified to the bidder.

“The contracting authority shall notify in writing to any unsuccessful tenderer of the reasons for the rejection of its offer, the amount of the contract awarded and the name of the winner. Any tenderer may request a copy of the minutes of award and any other relevant information that will be delivered within 5 working days of receipt of written request.”

References:

Article 68 of the Code and laws of Burundi, title VII Volume III
The award is notified to the bidder.

Yes: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

No: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30, 2011, 14h Bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérènce ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time
office : Framework for Burundi Social Audit”.

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time
office : Framework for Burundi Social Audit”.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

References:

Master NDIKUMANA Placide
counsel
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Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | **50** | 25 | 0

Comments:

Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

83

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes

No

Comments:

LAW N ° 1 / 07 of September 10, 2002 REVISION OF THE LAW ON THE ORGANIZATION OF THE PRIVATIZATION OF PUBLIC ENTERPRISES

Article 1: The Government is authorized to transfer, against payment of part or all stocks, shares or property interests of the state in any company or organization designated to public participation, to persons or entities private law. However, the complete sale of strategic companies can intervene only if other means such as concession and privatization of the management are inapplicable.

Article 2: The Government is also entitled to the conditions specified in this Act, to entrust the management of a public holding company or part of its business, a public utility or public work a private person or entity, according to the terms and conditions established by contract.

References:

LAW N ° 1 / 07 of September 10, 2002 REVISION OF THE LAW ON THE ORGANIZATION OF THE PRIVATIZATION OF PUBLIC ENTERPRISES

Articles 1-2.

Yes: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

No: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes

No

Comments:

Article 8: It is forbidden, under pain of nullity, to members of the Interministerial Committee for Privatization and their spouses, ascendants and descendants or relatives of first degree to wear, even through an intermediary, purchasers of securities of public companies to be privatized. The same prohibition applies to CEP experts, consultants and independent personalities under Articles 6 and 7 which he is assisted, and their spouses, ascendants and descendants or allies in the first degree. Similarly, it is forbidden for any manager of a public company convicted criminal because of fraudulent management to acquire shares of a public company to be privatized. The ban last five years from the conviction.

References:

LAW N 1 / 07 of September 10, 2002 REVISION OF THE LAW ON THE ORGANIZATION OF THE PRIVATIZATION OF PUBLIC ENTERPRISES

Article 8.

Yes: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

No: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100

75

50

25

0

Comments:

Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

References:

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counsel
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Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

70

54a. In law, citizens can access privatization regulations.

Yes | No

Comments:

LAW N 1 / 07 of September 10, 2002 REVISION OF THE LAW ON THE ORGANIZATION OF THE PRIVATIZATION OF PUBLIC ENTERPRISES

Article 5, paragraph 1: The Ministry in privatization in its remit includes among its members an Executive Secretariat of the CIP, with the following missions:

– Distribute, at the national and foreign potential buyers and the general public, as all the necessary information on the privatization policy of the Government on each of the Companies with Public Participation (SPP), public service and public work to be privatized in particular to attract the interest of prospective purchasers;

References:

LAW N 1 / 07 of September 10, 2002 REVISION OF THE LAW ON THE ORGANIZATION OF THE PRIVATIZATION OF PUBLIC ENTERPRISES

Article 5, paragraph 1.

Yes: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the

basis for scoring this indicator.

No: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | **50** | 25 | 0

Comments:

There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

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Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | No

Comments:

Article 5, paragraph 4 mandates:
"Disseminate to the public the decisions of the CIP"

References:

LAW N 1 / 07 of September 10, 2002 REVISION OF THE LAW ON THE ORGANIZATION OF THE PRIVATIZATION OF PUBLIC ENTERPRISES

Article 5, paragraph 4

Yes: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

No: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records take around two weeks to obtain. Some delays may be experienced

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
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Master NTWARI Fleury
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Location: Law firm consulting
Date: October 30, 2011

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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

Retrieving records may require a visit to a specific office, such as a regional or national capital.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

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Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

Category 5. Government Oversight and Controls

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes

No

Comments:

Article 10, paragraph 7, of the Constitution of Burundi provides for an Ombudsman.

The law of 25 January 2010 no1/03 the organization and functioning of the Ombudsman, Article 123, of the Constitution of Burundi requires:

"There shall be a service independent of the Ombudsman receives complaints and conducts investigations into mismanagement and violations of rights of citizens committed by members of the public and judicial services and makes recommendations to the competent authorities. "

References:

– Article 10, paragraph 7 of the Constitution of Burundi provides for an Ombudsman

– The law of 25 January 2010 no1/03 the organization and functioning of the Ombudsman Article 123, of the Constitution of Burundi.

Yes: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

No: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

56. Is the national ombudsman effective?

34

56a. In law, the ombudsman is protected from political interference.

Yes

No

Comments:

The ombudsman is protected from interference because Article 3.1 of the January 25, 2010 no1/03 of the organization and functioning of the Ombudsman states: "The Ombudsman is elected by the National Assembly and the approval of the subject senate.

References:

Article 3.1 of the January 25, 2010 no1/03. The Organization and Functioning of the Ombudsman.

Yes: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman is not protected from political interference since it is one of the highest court of the ruling party who is the council of elders

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

nr 8.1 article states: "The Ombudsman is an independent authority and shall take instructions from any authority."

References:

No1/03 law of 25 January 2010 on the Organization and Functioning of the Ombudsman; nr 8.1 Article.

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman has a staff that would not say 100% responsible for it is he who appoints them and the staff has no influence to make decisions in his absence.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

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Date: October 30, 2011

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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

References:

Master NDIKUMANA Placide
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Date: November 02, 2011
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Date: October 30, 2011

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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

References:

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Date: October 30, 2011

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Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

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NGO: Centre for fight against corruption and economic mismanagement
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Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | **50** | 25 | 0

Comments:

The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011

Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel

Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

50

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

Comments:

"...The report of the Ombudsman is published in the Official Bulletin of Burundi..."

References:

Law 1 / 03 of January 25, 2010 on the organization and operation of the Ombudsman, Article 17, Paragraph 4.

Yes: A YES score is earned if all ombudsman reports are publicly available.

No: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

Retrieving reports may require a visit to a specific office, such as a regional or national capital.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes

No

Comments:

Article 3 of Law No. 100/09 of 15 January 1994 Organization of the General Inspectorate of the State, states: "The General Inspectorate of State, in general, a permanent mission to inspection and control of the organization, operation and management of utilities, state institutions and public agencies and private associations or companies controlled by them.

Article 7 of the Act: "The mission of the General Inspectorate of the State also exercised wherever the interest of the public purse is at stake"

References:

Articles 3 and 7 of Law No. 100/09 of 15 January 1994 Organization of the General Inspectorate of the State.

Yes: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

No: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

59. Is the supreme audit institution effective?

59a. In law, the supreme audit institution is protected from political interference.

Yes | **No**

References:

Article 2 of Decree Law on the reorganization of the Inspector General of the State, states: “The General Inspectorate of the State is under the Ministry with good governance in its functions”

Yes: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | **25** | 0

Comments:

The General Inspector former of the State “Edmond BIZABIGOMBA” was removed from office by the president while he was abroad.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

staff has been chosen in a competition but by ethnic and regional

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

The appointees are qualified but leave the heads of committees of political parties in power.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The operating costs of the organ responsible for the inspection of the state are generally provided in the annual Budget the general law of public finance

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

reports are regularly given but the implementation of the recommendations depends on the executive power

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | **50** | 25 | 0

Comments:

audit agency reports are acted on, though some exceptions may occur for politically sensitive issues

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

the agency is launching investigations without the approval of the legislative or executive

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h Bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

58

60a. In law, citizens can access reports of the audit agency.

Yes

No

References:

Decree Law No. 100/49 of 14 March 1979 establishing the legal deposit archives of the Republic of Burundi

Yes: A YES score is earned if all supreme auditor reports are available to the general public.

No: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100

75

50

25

0

Comments:

It is difficult that every citizen has access to such audit reports.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h Bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

he acquisition cost of the audit reports is high because they must travel, take a long time too.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h Bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

Comments:

Burundian Revenue Office (OBR).

References:

law no1/11 decree of 14 July 2009 on the establishment, organization and operation of the Burundian Revenue Office (OBR).

Yes: A YES score is earned if there is a national agency formally mandated to collect taxes.

No: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Agency objectively recruits skilled employees.

References:

source:

Eric NIRAGIRA

Chartered Accountant by the College of Professional Accountants in Burundi

Place: Office of Private

Date: 25/10/2011

Time: 14: 30, Bujumbura Time

BARANKEZA Godefroid

Chartered Accountant by the College of Professional Accountants in Burundi

Place: Office of Private

Date: 30/10/2011

Time: 12: 30, Bujumbura Time

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency has a predictable source of funding that is fairly consistent from year to year.

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

63. In practice, are tax laws enforced uniformly and without discrimination?

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Agency tax revenue fails to control all taxpayers

References:

source:

Eric NIRAGIRA

Chartered Accountant by the College of Professional Accountants in Burundi

Place: Office of Private

Date: 26/10/2011

Time: 14: 30, Bujumbura Time

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes

No

Comments:

Law No. 1 / 02 of 11 January 2007 establishing the Community Customs Code

References:

Law No. 1 / 02 of 11 January 2007 establishing the Community Customs Code

Yes: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

No: A NO score is earned if that function is spread over several agencies, or does not exist.

65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency has staff sufficient to fulfill its basic mandate

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

he operating costs of the agency are in the annual general budget of the State

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

ome individus influence executive or some customs easily coruptibles

References:

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h bujumbura time

– HABONIMANA Thérance ; Communication Officer in the NGO “Framework for Burundi Social Audit”.
date: nov.02; 2011, 08h Bujumbura time

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

5.4. Oversight of State-Owned Enterprises

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes

No

Comments:

Article 3 of Law No. 100/09 of 15 January 2010 on the reorganization of the General Inspection of the State, Permanent Mission of inspection and control of the organization, operation and management of public services and businesses. Article 7 of the Act states that the mission of the General Inspection of the State also exercised wherever the interest of the public purse is at stake.

References:

Article 3 and Article 7 of Law No. 100/09 of 15 January 2010.

Yes: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

No: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

60

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes

No

Comments:

According to Article 2 of Law No. 100/09 of 15 January 2010 on the reorganization of the General Inspection of the State. The Inspection General of the State is under the supervision of the Minister having Good Governance within its remit.

References:

According to Article 2 of Law No. 100/09 of 15 January 2010.

Yes: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: November 02, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | **50** | 25 | 0

Comments:

The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: November 02, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

Comments:

The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

References:

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counsel
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Date: November 22, 2011 in 16h Bujumbura time

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

25

69a. In law, citizens can access the financial records of state-owned companies.

Yes | **No**

Comments:

No specific law authorizing access to financial records companies of the state.

References:

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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

Yes: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

No: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | **50** | 25 | 0

Comments:

State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

References:

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Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | **25** | 0

Comments:

The financial data of state enterprises are not properly checked by the auditors and may not use international accounting standards.

References:

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Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

References:

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Date: November 22, 2011 in 16h Bujumbura time

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Retrieving records may require a visit to a specific office, such as a regional or national capital.

References:

IRAMBONA Claver

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NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

62 5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

100

70a. In law, anyone may apply for a business license.

Yes | No

Comments:

"Freedom of assembly and association is guaranteed, as well as the right to form associations or organizations according to law"

References:

Constitution of the Republic of Burundi

Article 32:

"Freedom of assembly and association is guaranteed, as well as the right to form associations or organizations according to law"

Yes: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

No: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | No

Comments:

“People who have been declared bankrupt and not rehabilitated or convicted of bankruptcy can not be registered. At the request of those concerned, the Commercial Court will address them to forfeiture if their behavior since the conviction or bankruptcy seems to have to justify ...”

References:

Article 45 of the Code and laws of Burundi, Book 4, Title V, Chapter III, Volume I

Yes: A YES score is earned if there is a formal process for appealing a rejected license.

No: A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Commercial licenses are obtained within a reasonable time for the citizens

References:

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Faustin NDIKUMANA

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Date: November 22, 2011 in 16h Bujumbura time

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Commercial licenses are obtained at a reasonable cost for citizens.

References:

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Date: November 22, 2011 in 16h Bujumbura time

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

33

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | **No**

Comments:

There is no law made public regarding the regulation of business by the standards of public health.

References:

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Location: Law firm consulting
Date: October 30, 2011

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Responsible for listening, monitoring and evaluation
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Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Yes: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes | No

Comments:

"The State shall ensure the proper management and rational exploitation of natural resources while preserving the environment and conservation of these resources for future generations"

References:

Constitution of the Republic of Burundi
Article 35.

Yes: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

Comments:

There is no law made public regarding the regulation of business by the standards of public safety.

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Yes: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

0

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The inspection business is not done on a regular basis to meet the standards of public health.

References:

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Date: November 22, 2011 in 16h Bujumbura time

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The inspection business is not done so regularly to meet environmental standards.

References:

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Date: November 22, 2011 in 16h Bujumbura time

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The inspection business is not done on a regular basis to meet the standards of public safety.

References:

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 30, 2011

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100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

6.1. ⁶⁶Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

Comments:

This law provides measures to prevent and combat corruption and related offenses.

References:

Law No. 1 / 12 of 18 April 2006 on measures to prevent and combat corruption and related offenses.

Yes: A YES score is earned if corruption laws include attempted acts.

No: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

Comments:

Article 45 states:

“shall be punished of imprisonment of twelve to fifteen years and a range of simple almond up to twice the value of illicit profit acquired, while the judicial officer, any officer of the Public Prosecutor or the Police court who receives or agrees to receive offers or promises for the purposes to make a decision that should not be. “

References:

Law No. 1 / 12 of 18 April 2006, Article 45.

Yes: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

No: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

Comments:

Law No. 1 / 12 of 18 April 2006, Article 52, states:

“The penalties brought to the previous article (five to ten years), the proposer, without the right, directly or indirectly, offers, promises, donations, gifts or any benefits for a person depositary of public authority, charged with a public service mission or holding an elective public office, to abuse his real or supposed influence with a view to obtaining from an authority or a public administration distinctions, jobs, contracts or any other favorable decision. “

References:

Law No. 1 / 12 of 18 April 2006, Article 52.

Yes: A YES score is earned if offering a bribe is illegal.

No: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes

No

Comments:

Article 45 states:

“shall be punished of imprisonment of twelve to fifteen years and a range of simple almond up to twice the value of illicit profit acquired, while the judicial officer, any officer of the Public Prosecutor or the Police court who receives or agrees to receive offers or promises for the purposes to make a decision that should not be. “

References:

Law No. 1 / 12 of 18 April 2006, Article 45.

Yes: A YES score is earned if receiving a bribe is illegal.

No: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes

No

Comments:

Article 63 states:

“shall be punished of imprisonment of five to ten years and a range of simple almond up to twice the value of illicit profit acquired, one who has proposed, offered or granted, without the right, directly or indirectly, offers, promises, donations, gifts or any benefits to a foreign public official, an official of a non-governmental organization, to perform or refrain from acting in the performance of his official duties or retain business or other advantage in connection with the activities of international trade”.

References:

Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses, Article 63.

Yes: A YES score is earned if bribing a foreign official is illegal.

No: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

Comments:

Article 61 of Law No. 1 / 12 of 18 April 2006 states:

Shall be punished by imprisonment of two to five years and a fine of 50,000 to 100,000 Burundian francs, any official or agent of a public or private corporation that will use its property he knows to the contrary interests of society»

References:

Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses, Article 61.

Yes: A YES score is earned if using public resources for private gain is illegal.

No: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

Comments:

Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses.

Article 36 bis:

“The staff of the Supreme Court and other courts depository statements of assets is required to maintain the confidentiality and secrecy on their activities. Any personnel services listed above that will reveal all or part of the information confidential or secret shall be punished by a sentence of three to five years servitude and a fine of two to two hundred thousand to one million francs . The former staff of these services are also bound by this obligation. The violation of the latter is an offense punishable under the preceding paragraph.”

References:

Article 36 bis, Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses.

Yes: A YES score is earned if using confidential state information for private gain is illegal.

No: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes

No

Comments:

Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses.

Article: 62

Is guilty the offense of money whoever shall:

1 to the conversion, transfer or disposal of property with full knowledge that they are the product of corruption and related offenses for the purpose of concealing or disguising the illicit origin of property or of assisting those involved in Mantua the commission of the offense to escape the consequences of his action;

2 to the concealment or disguise of the true nature, origin, location, disposition, movement or ownership of property or rights proceeds of corruption or any other related offenses;

3 to the acquisition, possession or use of property, originally at the time of acquisition, possession or use, is the product of corruption or of one or the other related offenses.

Shall be punished with imprisonment of fifteen to twenty years and an almond ranging from twice to ten times the value of property subject to money laundering, any person who commits or attempts to commit an offense under the preceding paragraphs”

References:

Article 62, Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses.

Yes: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

No: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes

No

References:

Constitution of the Republic of Burundi

Article 72 “..... All Burundians, any alien in the territory of the Republic of Burundi has a duty not to compromise the security of the State “

Yes: A YES score is earned if organized crime is illegal.

No: A NO score is earned if this is not illegal.

6.2. Anti-Corruption Agency or Equivalent Mechanisms

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes

No

Comments:

Article 3 states:

In the implementation of the national policy against corruption and related crimes in corruption, it is set up an institutional framework composed of:

- A Special Brigade Anti-Corruption;
- An Anti-Corruption Court

References:

Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses.
Article 3.

Yes: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

No: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

75. Is the anti-corruption agency effective?

47

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes

No

Comments:

Article 18 states:

“The judges of the court and those of anti-corruption prosecutor’s office are named after approval by decree of the senate on the recommendation of the Minister of Justice and Minister of Justice among career judges is highly experience of irreproachable morality, of uncompromising integrity and a professionalism”

References:

Law No. 1 / 12 of 18 April 2006 on measures for preventing and combating corruption and related offenses.
Article 18.

Yes: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | **50** | 25 | 0

Comments:

There the brigade anti corruption court against corruption but are limited in their exercise function because it can not stop the political agents. Even some cases processed remain in their drawers because of political influence.

References:

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Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Perfect BARUTWANAYO;

Academic Director at the University Wisdom of Africa: Bujumbura

Location: Framework for Burundi Social Audit

Date: November 11, 2011 at 17h

– HASABAMAGARA VIANEY; legal representative at “center support for the development of productive organizations”
date: oct. 30,2011 , 14h Bujumbura time
office : Framework for Burundi Social Audit”.

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The head of the anti-corruption brigade and the president of the anti corruption court to be appointed and nominated by the Minister of Justice. that is to say that it is not protected politically.

References:

Perfect BARUTWANAYO;
Academic Director at the University Wisdom of Africa: Bujumbura
Location: Framework for Burundi Social Audit
Date: November 13, 2011 at 18h

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
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Date: November 22, 2011, 10h Bujumbura time

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

The heads of these agencies because they are professionals trained in law but are not appointed because of his skills but by political affiliations.

References:

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Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | **50** | 25 | 0

Comments:

The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
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Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

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Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

References:

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Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | **25** | 0

Comments:

The anti-corruption agency has limited powers to carry out its mandate properly because they cannot attack certain positions, regardless of an incident of corruption, such as certain mandataires politiques.

References:

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Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | **50** | 25 | 0

Comments:

The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments. The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
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Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
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Date: November 22, 2011 in 16h Bujumbura time

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?

0

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

References:

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Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

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Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

References:

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
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100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

75

77a. In law, there is a general right of appeal.

Yes

No

Comments:

Decree Law No. 1 / 05 of April 22, 2009, (revising the penal code) enshrined the principle of appeal. Article 147 states: the prescription begins to run the day when all the elements of the offense together for infringements instant, she runs the day when the state stopped offending in terms of continuing or repeated infringements.

References:

Decree Law No. 1 / 05 of April 22, 2009 (revising the penal code), Article 147.

Yes: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

No: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100

75

50

25

0

Comments:

the production of the record may take time but sometimes the delay is reasonable because the appellate judge is faced with a record already established.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

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100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

Call charges are a minimum two times the daily wage of a worker. The cost of travel is not high because the appellate courts are not far from the courts of first instance except for the rare cases that are known first degree by the Courts of First Instance

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

75

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

References:

The criminal law must be interpreted strictly

Article 41: Constitution: No person shall be convicted for acts or omissions which, when it was committed did not constitute an offense.

Similarly, it can not be inflicted heavier penalty than was applicable at the time the offense was committed.

Article 1: Only the law defines the elements of the offense and determine the penalties: Penal Code

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

50

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 29, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

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100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

13

80a. In law, the independence of the judiciary is guaranteed.

Yes

No

Comments:

Article 113 of the constitution, the president may hinder the execution of judgments by presidential pardon. (The President has the right to exercise it after consultation with the two vice-presidents and after consulting the High Council of Magistrates)
Article 209 of the constitution that gives independence to the judiciary is destroyed by the Art .214 of the Act, judges are appointed by the president on recommendation of the Minister ... (All of the executive)
Article 217 of the Constitution speaks to show that the judiciary is not independent when it announces the composition of the board of the Judiciary

- . 5membres appointed by Government
 - . 3juges higher courts
 - . Two magistrates M.P.
 - . Two judges of the courts of residence
 - . 3Member practice law in the private sector
- Only 7 / 15 are elected by their peers

S.219. states that the Board of the Judiciary is headed by the executive (the President of the Republic attended by the Minister of Justice)

References:

Observatory of Government Action, asbl

Web: www.oag.bi

"Critical analysis of how the local justice", Bujumbura, March 2007, p.45

Observatory of Government Action, asbl

Web: www.oag.bi

"Critical analysis of the functioning of the superior courts of Burundi"

Bujumbura, December 2007, p.75

Yes: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

No: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | **50** | 25 | 0

Comments:

Judges are not protected from political interference. They are appointed and by executive.

References:

Observatory of Government Action, asbl

Web: www.oag.bi

“Critical analysis of the functioning of the superior courts of Burundi”

Bujumbura, December 2007, p.75

-IRAMBONA Claver

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Master NTWARI Fleury

counsel

Location: Law firm consulting

Date: October 29, 2011

100: National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | **No**

Comments:

It is the executive who prepare transfers or advanced grade for judges

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
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Location: Law firm consulting
Date: October 29, 2011

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Yes: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

No: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes | **No**

Comments:

There is a judge who was dismissed without due justification

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
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counsel
Location: Law firm consulting
Date: October 29, 2011

IRAMBONA Claver
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Yes: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

No: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

Comments:

The judges investigating corruption are often protected by the executive for political purposes.

References:

Master NDIKUMANA Placide
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Location: Office of the Master Deo NDIKUMANA
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Master NTWARI Fleury
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Location: Law firm consulting
Date: October 29, 2011

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Yes: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

No: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

Comments:

no known cases

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 29, 2011

IRAMBONA Claver
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Yes: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

No: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

54

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

here may be isolated cases

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 29, 2011

IRAMBONA Claver
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Date: November 22, 2011, 10h Bujumbura time

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

No discrimination

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

Master NTWARI Fleury

counsel

Location: Law firm consulting

Date: October 29, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

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Date: November 22, 2011, 10h Bujumbura time

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

Comments:

No advisor is given by the government.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 29, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
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Yes: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

No: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
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Location: Law firm consulting
Date: October 29, 2011

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100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

it depends on the situation of the court and his residence. Sometimes the poor win the trial, other times they drop the case during the proceedings (for lack of resources).

References:

Master NDIKUMANA Placide
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Date: October 29, 2011

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100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

it depends on the situation of the court and his residence.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel

Location: Law firm consulting
Date: October 29, 2011

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | **50** | 25 | 0

Comments:

The geographic location greatly affects access to the jurisdiction or not.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

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Master NTWARI Fleury
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Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

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100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

The appointees are often loyal to the ruling political party or be unprofessional not to make decisions that the executive does not want.

References:

IRAMBONA Claver

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Faustin NDIKUMANA

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100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The agency has a budget sufficient to fulfill its basic mandate. They receive huge salaries and vehicle travel while they do nothing. They are blocked by the executive is often soaked in corruption.

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

Master NTWARI Fleury
counsel

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100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

As long as judges are dependent on the executive political interference is always appreciated

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

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Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

67

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes

No

Comments:

citizens can file a complaint against a police officer to the prosecutor, ombudsman, anti-corruption squad, anticorruption court as appropriate and depending on the status of the officer.

References:

Constitution of Burundi

Yes: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

No: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

but the answer may depend on either the status or the influence of the complainant or the influence of the person against whom the complaint is filed.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 29, 2011

IRAMBONA Claver
Responsible for listening, monitoring and evaluation
NGO: Centre for fight against corruption and economic mismanagement
Location: Office of the organization
Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA
Legal representative: Word to the awakening of consciousness to change attitudes (NGO)
Location: organization headquarters
Date: November 22, 2011 in 16h Bujumbura time

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

Comments:

Law No. 1/12 of April 18, 2006 sets forth measures for the prevention and repression of corruption and related offenses. It creates the anti-corruption brigade and an anti-corruption court.

References:

Law No. 1 / 12 of 18 April 2006.

Yes: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

No: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

References:

Master NDIKUMANA Placide
counsel

Location: Office of the Master Deo NDIKUMANA

Date: October 29, 2011

Master NTWARI Fleury
counsel

Location: Law firm consulting

Date: October 29, 2011

IRAMBONA Claver

Responsible for listening, monitoring and evaluation

NGO: Centre for fight against corruption and economic mismanagement

Location: Office of the organization

Date: November 22, 2011, 10h Bujumbura time

Faustin NDIKUMANA

Legal representative: Word to the awakening of consciousness to change attitudes (NGO)

Location: organization headquarters

Date: November 22, 2011 in 16h Bujumbura time

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | **No**

Comments:

the enforcement of laws can be prosecuted just like any other citizens, there are some who enjoy a privilege of jurisdiction.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 29, 2011

Yes: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

No: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | **50** | 25 | 0

Comments:

even in practice, responsible for law enforcement are prosecuted for acts they allegedly committed.

References:

Master NDIKUMANA Placide
counsel
Location: Office of the Master Deo NDIKUMANA
Date: October 29, 2011
Master NTWARI Fleury
counsel
Location: Law firm consulting
Date: October 30, 2011

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
