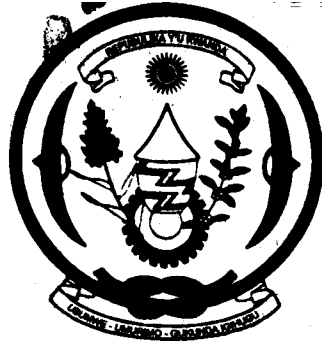


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N° 31/2005 of 24/12/2005

Law relating to the organisation and functioning of the National Electoral Commission.

LAW N° 31/2005 OF 24/12/2005 RELATING TO THE ORGANISATION AND FUNCTIONING OF THE NATIONAL ELECTORAL COMMISSION

We, KAGAME Paul,
President of the Republic;

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

THE PARLIAMENT:

The Chamber of Deputies, in its session of December 1st, 2005;

The Senate, in its session of December 21, 2005;

Given the Constitution of the Republic of Rwanda of June 4, 2003 as amended to date especially in its Articles 62, 88, 89, 90, 92, 93, 95, 108, 118, 121, 180 and 201;

Having reviewed the Law n° 39/2000 of 28/11/2000 for the setting up of the National Electoral Commission as modified and completed to date;

ADOPTS:

CHAPTER ONE: GENERAL PROVISIONS

Article one:

This Law determines the organisation and functioning of the National Electoral Commission referred to as "Commission" in this Law.

Article 2:

The seat of the Commission is in the City of Kigali, the capital of the Republic of Rwanda but it can be shifted to any location if considered necessary.

Article 3:

The Commission is independent and it is responsible for preparing and organising, grassroots, Parliamentary and Presidential elections, referendum and other elections the law may determine for the Commission.

The Commission also verifies whether the elections are conducted in a free and transparent manner.

Article 4:

The Commission submits every year, its plan of action and the activity reports to the President of the Republic and a copy reserved to the Parliament, the Cabinet, the Supreme Court and the Ministry in charge of Local Government.

Article 5:

In regard to the preparation and organisation of elections, the Commission shall:

- 1° prepare, conduct and supervise elections;
- 2° establish electoral constituencies;
- 3° establish the Commission branches in the Province and the City of Kigali, Districts and appoint members of the Electoral College, give them instructions, receive their reports and supervise them during elections;
- 4° prepare and teach civic education on elections;
- 5° monitor, announce and publish in writing election results;
- 6° put in place strategies to ensure elections are free, fair and transparent;
- 7° carry out any other electoral activities provided by the law.

CHAPTER II: ORGANISATION OF THE COMMISSION

Article 6:

The Commission is composed of the following organs:

- 1° The Council of Commissioners;
- 2° The Bureau of the Commission;
- 3° The Executive Secretariat.

Section one: The Council of Commissioners

Article 7:

The Commissioners shall have a mandate of three (3) years, which may be renewable only once.

The Council of Commissioners shall be composed of seven (7) members of which at least two (2) of them are required to be lawyers.

At least thirty percent (30%) of the Commissioners shall be women.

The Commissioners shall not receive regular salaries. However, if they are in a meeting, not in a period of elections, they shall receive sitting allowances which shall be determined by a Presidential order.

Article 8:

The Government shall present to the Senate seven (7) Commissioners including the President and the Vice President for their approval as provided for by article 88 of the Constitution of the Republic of Rwanda of June 4, 2003 as amended to date.

They are appointed and removed from office by a Presidential order.

Article 9:

Before they assume office, the Commissioners shall take oath before the Supreme Court as provided for in article 61 of the Constitution of the Republic of Rwanda of June 4, 2003 as amended to date which is as follows:

“I.....solemnly swear to the Nation that I shall:

- 1° diligently fulfil the responsibilities entrusted to me;
- 2° remain loyal to the Republic of Rwanda;
- 3° observe the Constitution and other laws;
- 4° work for the consolidation of national unity;
- 5° conscientiously fulfil my duties of representing the Rwandan people without any discrimination whatsoever;
- 6° never use the powers conferred on me for personal ends;
- 7° promote respect for the freedoms and fundamental rights of the human being and safeguard the interests of the Rwandan people;

Should I fail to honour this oath, may I face the rigours of the law.

So help me God”.

After swearing in, they shall sign on their oath.

Article 10:

During the period of general elections, the Commissioners shall suspend their duties one month before the elections in order to monitor the activities of the elections until the announcement of the final results.

They resume their duties with no effect at the end of that period.

During that period of general elections a presidential decree shall determine the benefits to be accorded to commissioners.

Article 11:

In order for a person to be a commissioner in the commission, he or she has to meet the following requirements:

- 1° be a Rwandan;
- 2° be at least a holder of a bachelor's degree from a University or from state recognised higher learning institutions;
- 3° be a person of integrity.

Article 12:

The Council of Commissioners is responsible for:

- 1° determining the electoral Policy;
- 2° approving the National Electoral Commission action plan;
- 3° taking decisions on electoral matters;
- 4° analysing and approving National Electoral Commission report;
- 5° analysing and approving reports related to electoral activities;
- 6° analysing and approving electoral instructions;
- 7° analysing and approving electoral education materials;
- 8° analysing and approving electoral equipment and materials;
- 9° analysing and approving electoral time table;
- 10° approving the final electoral list;
- 11° analysing and approving candidacies;
- 12° approving draft budget for the National Electoral Commission so that it may be forwarded to competent authorities;
- 13° approving representatives of the Electoral Commission in its branches at Province, City of Kigali and District levels during elections;
- 14° monitoring electoral campaigns;
- 15° monitoring electoral process;
- 16° announcing election results;
- 17° coordinating the commission activities;
- 18° advising the Government on ways of how the commission may perform better.

Section 2: Members of the Bureau and their Responsibilities

Sub section one: Members of the Bureau

Article 13:

The Bureau of the Commission consists of the following persons:

- 1° the President;
- 2° the Vice President;
- 3° the Executive Secretary.

Article 14:

The Bureau of the Commission is responsible for:

- 1° preparing urgent actions to be forwarded to the Council of Commissioners;
- 2° preparing points to be discussed in the Council of Commissioners;
- 3° preparing and forwarding to the Council of Commissioners the programme of the electoral activities.

Section 2: The duties of members of the Bureau of the Commission

Article 15:

The President of the Commission is responsible for:

- 1° representing the Commission before other institutions;
- 2° convening and directing the meeting of the Council of Commissioners;
- 3° convening and directing the meeting of the Bureau;
- 4° coordinating the activities of the Commission;
- 5° performing other duties related to his or her responsibilities as may be assigned by the Council of Commissioners.

Article 16:

The Vice-President of the Commission is responsible for:

- 1° assisting the President of the Commission and replace him or her in case of his or her absence;
- 2° performing other duties related to his or her responsibilities as may be assigned by the Council of Commissioners.

Article 17:

The Executive Secretary is responsible for:

- 1° supervising the daily activities of the Commission;
- 2° performing the secretarial activities of the Council of Commissioners and those of the Bureau of the Commission;
- 3° managing personnel and property of the Commission in accordance with the existing laws and regulations of the Commission;
- 4° performing any other duty in his or her responsibilities as may be assigned by the Council of Commissioners.

Section 3: Executive Secretariat

Article 18:

The Commission has an Executive Secretariat consisting of an Executive Secretary and other personnel to run the daily activities in accordance with the organisational structure instituted by an order of the Prime Minister.

Article 19:

The Executive Secretariat shall be a technical office of the National Electoral Commission.

Its role shall be to ensure the smooth day to day running of the Commission, to prepare and execute, at the technical level, all electoral activities especially:

- 1° to prepare the action plan of the Commission and its budget;
- 2° to execute the decisions of the Council of Commissioners;
- 3° to prepare draft instructions governing the electoral process;
- 4° to prepare draft civic education on elections;
- 5° to prepare the electoral list;
- 6° to perform any other duty as may be assigned by the Council of Commissioners.

Article 20:

The Executive Secretary of the Commission shall:

- 1° be a Rwandan citizen;
- 2° be at least a holder of a bachelor degree from a University or from a State recognised higher learning institution;
- 3° be a person of integrity.

Article 21:

The Executive Secretary of the National Electoral Commission is appointed by an order of the Prime Minister after being approved by the cabinet meeting.

Other members of staff of the Commission are appointed and managed in accordance with the General statute of Public Servants.

CHAPTER III: FUNCTIONING OF THE COMMISSION

Article 22:

The Council of Commissioners is directed by its President. In case of his or her absence, he or she is replaced by the Vice President. In case both are absent, other Commissioners elect among themselves its temporary Chairman.

The President of the Commission or his or her Vice, after consulting other Commissioners, may invite any person in the meeting who may contribute on the points on the agenda but does not vote when taking decisions.

Article 23:

In order for the Council of Commissioners to convene, there shall be at least two thirds (2/3) of its members.

Decisions shall be taken on consensus. In case of no consensus, decisions are taken by a simple majority vote of two thirds (2/3) of Commissioners present in the meeting.

Meetings of the Council of Commissioners are prepared by the Executive Secretariat.

During elections, meetings of Commissioners shall convene whenever considered necessary.

During non-electoral process, the meetings shall convene once in a semester and whenever deemed necessary.

During that period, they shall receive an allowance determined by an order of the President.

Article 24:

The Agenda of the ordinary meeting shall be submitted to the Commissioners at least two (2) days before the meeting convenes.

The Council of Commissioners may add on the Agenda other points in case it is accepted at least by two thirds (2/3) of the members present in the meeting.

Article 25:

The Executive Secretary shall be the rapporteur of the meeting but shall have no right to vote.

In case he or she is unable to attend, he or she shall appoint a person to replace him or her from members of the Executive Secretariat.

Article 26:

During electoral activities, the Commission shall establish branches at Provincial, City of Kigali and District levels.

The number of its members shall be determined in accordance with particularity of each level and election.

Article 27:

In general, the branches of the Commission are required to prepare electoral activities at the levels they operate in accordance with instructions provided by the Commission.

Article 28:

The Plan of Action, activity report as well as decisions of the Council of Commissioners shall be submitted to the President of the Republic and copies reserved to the President of the Senate, the Speaker of the Chamber of Deputies, the Prime Minister, the President of the Supreme Court and the Minister in charge of Local Government.

Article 29:

The recurrent budget reserved for the daily activities of the Commission and the special budget which is also used during elections are included in the State Budget.

The State also has an obligation to solicit support for the Commission in order to effectively fulfil its responsibilities.

Article 30:

The Commission institutes its internal regulations.

CHAPTER IV: MISCELLANEOUS AND FINAL PROVISIONS

Article 31:

A member of the Commission shall cease to be a member due to one of the following reasons:

- 1° resignation from duty and notification in writing to the President of the Republic;
- 2° failure to discharge his or her duties due to various reasons;
- 3° upon request by the President of the Republic;
- 4° upon request by at least a half (1/2) of the members of the Senate;
- 5° upon death.

In case one of the members of the Council of Commissioners ceases duties, he or she shall be replaced in a period not exceeding three (3) months. During that period, the Government submits to the Senate a candidate on that post for approval. The Commissioner who replaces shall complete the mandate of his or her predecessor.

Article 32:

Any member of the Commission and any other person involved in the organisation of the elections are not allowed to stand for any elective office as long as they still occupy that position.

Article 33:

During general elections, the Commissioner in office at the national or branch level shall not be temporary detained by judicial organs. However, if caught red handed or manifests behaviour that may hinder the smooth running of the elections such as revealing secrets, vote rigging, damaging electoral documents and materials and other related offences, he or she shall be prosecuted in accordance with the electoral law and the Criminal Code of Rwanda.

Article 34:

The Law n° 39/2000 of 28/11/2000 for setting up the National Electoral Commission as modified and completed to date and all previous legal provisions contrary to this law are hereby abrogated.

Article 35:

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

Kigali, on 24/12/2005

The President of the Republic
KAGAME Paul
(sé)

The Prime Minister
MAKUZA Bernard
(sé)

The Minister of Local Government, Good Governance,
Community Development and Social Affairs
MUSONI Protais
(sé)

The Minister of State in charge of Economic Planning in the
Ministry of Finance and Economic Planning
NSANZABAGANWA Monique
(sé)

The Minister of Public Service and Labour
EI Hadj BUMAYA André Habib
(sé)

Seen and sealed with the Seal of the Republic:

The Minister of Justice
MUKABAGWIZA Edda
(sé)