II. Human rights situation

[…]

B. Human rights situation and main violations since June 2020

105. Since June 2020, human rights violations have been committed, initially in the context of the 2020 electoral process as noted by the Commission in its last report. After the elections, the violations persisted to a lesser extent before increasing again since June 2021, mostly in relation to the multiple security incidents in Burundi. The democratic space remains closed, with authorities maintaining a tight control over the media and the civil society despite isolated symbolic gestures by President Ndayishimiye to show the international community that the situation in the country is changing. However, such gestures are not structural in nature and therefore, cannot lead to a sustainable and profound improvement of the human rights situation.

106. The Commission noted that the human rights violations committed since the inauguration of President Ndayishimiye mainly target members of opposition parties, individuals suspected of involvement in the armed attacks or of collaborating with armed groups, as well as; albeit to a lesser extent; returnees and the Burundian population in general. National Intelligence Service (SNR) agents, under the direct responsibility of President Ndayishimiye, were the main perpetrators in cases of execution, enforced disappearance, arbitrary arrest and detention, and torture in connection with armed attacks and continued to act with total impunity. Police agents, namely from the Rapid Intervention Mobile Groups (GMIR), and Imbonerakure have also been involved in cases of execution, arrest, and torture. The judicial system continues to be used as a tool of repression by validating and prolonging arbitrary detentions, and no significant progress in the fight against impunity for past violations has been observed. Furthermore, the Burundian population lives in a situation of extreme poverty which negatively affects the enjoyment of economic and social rights, including the right to an adequate standard of living, food, health, and education.

107. Furthermore, Burundian authorities seem to have taken notice, to some degree, of the numerous deep-rooted challenges that directly impact the human rights situation in the country, including the deficiencies of the judiciary, the prevalence of corruption at all levels, including in the justice system. Some measures have been taken, but they tend to be harmful in the long run as they seek to reinforce the control of the Executive at all levels.

1. Human rights violations and abuses in the context of security incidents.

a) Increase in security incidents

108. At the end of August 2020 and at the beginning of September 2020, several security incidents were reported, including armed clashes and exchanges of fire between members of the security forces, at times supported by Imbonerakure, and members of armed groups – often unidentified – but also attacks against civilians by groups of unidentified armed men.

[…]

113. Thus, 537 security incidents led to 410 victims from the civilian population, security, and law enforcement forces, Imbonerakure, and members of armed groups between 18 June 2020 (President Ndayishimiye’s inauguration date) and 30 July 2021.[[1]](#footnote-2)

b) Violations of the rights to life, liberty, and physical integrity

114. Burundian authorities have described some incidents as either simple acts by criminal groups[[2]](#footnote-3) or as acts of terrorism.[[3]](#footnote-4) They apparently tried to find the perpetrators, which would have been absolutely legitimate. However, in so doing, they tried to carry out large scale search operations which targeted members of the *Congrès national pour la liberté* (CNL) and ex-FAB (elements of the former Burundian army). Thus, after a brief quiet period at the end of the electoral process, serious human rights violations increased significantly from June 2021. These are mainly violations of the right to life[[4]](#footnote-5) along with enforced disappearances and executions, violations of the right to not be subjected to torture and ill-treatment, often committed cumulatively against the same person.

115. The Commission was unable to establish whether the authorities’ suspicion on the involvement of these persons in the attacks were founded on objective evidence or only linked to their political affiliation or their ethnic profile, and therefore rather linked to the repression of political opponents. Nevertheless, the Commission underscores that the fight against criminality and terrorism should be conducted in strict compliance with human rights, including the right to life, the right to not be tortured, the right to liberty and security, the right to a fair trial, the right to not be discriminated against based on ethnic origins or political affiliation.[[5]](#footnote-6)

116. The witness accounts collected demonstrate a well-established modus operandi of these violations. CNL members, ex-FAB or returnees were accused of collaborating with rebels, including providing them with logistical support such as bringing them food, hiding weapons, or collecting and/or transmitting information.[[6]](#footnote-7)

A person explained:

*“He asked me why I bought an abnormally large amount of food. He accused me of stocking up for the rebels […]. I told him that I had a family of [X] […], adding up to [X] people in my house and that the provision was not enough for a week […] there was nothing abnormal in these provisions”.[[7]](#footnote-8)*

117. They were arrested, generally without a warrant, by police agents, namely those from special units such as GMIR, intelligence agents from SNR, accompanied or not by Imbonerakure, and more rarely by Imbonerakure alone. Sometimes, some of their relatives were arrested, detained or prosecuted in their stead or for complicity.[[8]](#footnote-9) During their detention and their interrogation by SNR, they were often tortured and ill-treated, including through the use of violence of a sexual nature,[[9]](#footnote-10) in order to force them to admit their guilt or reveal information on the rebel groups and their operations.[[10]](#footnote-11) In two cases, the inflicted torture allegedly led to fatal injuries and deaths which were not investigated.[[11]](#footnote-12)

A witness said:

“*The commissioner told me: ‘Listen, I am tired, do not tire me more. Tell me the truth. Tell me where you came from and what you came to do?’. He then called a police agent from the intelligence service called [A]. After, [A] tied me up and, upon the orders of the commissioner, he started to beat me until he was tired […]. He tied my hands behind my back with a rope and he put handcuffs on my feet […] they kept me tied up and with the handcuffs on until the following day […] I have scars […] other times, I was beaten with my co-detainees […] he beat me on my spine with something that is in plastic but that is pliable. I think they call it a whip [*chicotte *in French] […] the words and accusations that they kept repeating while beating me were requests to admit that I am part of an armed group, that I had gone to [X] to mobilise an armed group to overthrow the government, that I was trying to overthrow the government”*.[[12]](#footnote-13)

118. During the detention period by SNR, they were almost systematically detained *incommunicado*, deprived of access to any legal counsel, and their relatives did not know where they were since the Burundian authorities refused to acknowledge their detention. These facts constitute *de facto* a situation of enforced disappearance since the person is placed outside the protection of the Law, even if it is temporarily.[[13]](#footnote-14) Occasionally, some persons reappeared in a detention place, after a while, often bearing scars of the endured torture.[[14]](#footnote-15) Generally, they were then held in preventive custody as part of their prosecution following accusations against them of “undermining the internal security of the State”,[[15]](#footnote-16) “participation in armed groups”[[16]](#footnote-17) or “illegal detention of weapons”.[[17]](#footnote-18) However, the majority of disappeared persons never reappeared, and their fate is still unknown to this day, even if it is reasonable to think that they were executed.[[18]](#footnote-19)

A relative of a disappeared person testified:

“*On [X] 2021, a group of police agents went to his house to carry out a search mission. They found nothing at his house. He was not home but [Y] was there. The police agents told [Y] that [X] must report to the police station when he returns. Since he had a clear conscience, he went […] to the police […]. At the police station […] intelligence agents entered and immediately took him out of the office and into a car. Since that day, we have not heard from him. We looked in all the detention centres of [A] and [B], but we did not find him. We do not know if he is still alive. [He] was accused of collaborating with the rebels”*.[[19]](#footnote-20)

Some weeks later, the disappeared person reappeared in detention after having been detained and tortured at SNR and, during this time, his close relatives were not informed of his fate despite their enquiries.

119. Close relatives of arrested or missing persons, especially women, were also arbitrarily arrested and detained by SNR and prosecuted for not having denounced them or without any real official reason, as part of the investigations on security incidents; for which their spouse or another member of their family, is presumed responsible.[[20]](#footnote-21) At least one of these women was victim of rape. The Commission recalls that it had noted the existence of such practices in the past: members of the security forces and Imbonerakure had regularly committed serious violations of the right to physical integrity, namely rape, and the right to freedom against women and girls to punish them for their relatives’ actions or to force them to join the party CNDD-FDD or even during attacks targeting the homes of people perceived as opponents.[[21]](#footnote-22)

120. In addition, men suspected of being members of armed groups involved in the security incidents or of assisting the latter were executed by police agents or SNR agents including some who were in detention. No credible investigation was ever opened in relation to these incidents.[[22]](#footnote-23)

A witness recounted:

“*A police agent came and shot [X] with one bullet and he died on the spot. I saw that he was a man in police uniform, but I do not know who he was. He came in, looked at [X]. He had a torch that he pointed towards [X] and he then shot him three times: twice in the head and once in the stomach. Then he switched off his torch and left […]. The body stayed there […]. There was blood all around the body*”.[[23]](#footnote-24)

121. It is in this context that some prisoners benefited from the presidential pardon extended to 5,000 prisoners in March 2021,[[24]](#footnote-25) who were progressively released from the end of April,[[25]](#footnote-26) were re-arrested shortly after their release, and others kidnapped or disappeared, especially persons who had been arrested because of their political affiliation or their participation in the 2015 demonstrations.[[26]](#footnote-27)

c) Violations of the right to life

122. The Commission has also received credible allegations on cases of violations of the right to life. Imbonerakure, CNDD-FDD members with administrative responsibilities at the local level along with some of their relatives were deliberately killed by unidentified armed men.[[27]](#footnote-28) Groups of unidentified armed men might be responsible for the indiscriminate attacks that killed several civilians.[[28]](#footnote-29) The Commission was not able to identify the perpetrators, specifically due to the lack of access to the victims close to CNDD-FDD who were unwilling to cooperate with the Commission in relation to the targeted attacks but also because of the refusal of the Government to share information on these attacks with the Commission.

2. Situation of the media and journalists

[…]

124. The most significant progress since President Ndayishimiye came into power is in relation to the media. The Government of Burundi took steps to release the pressure on the media but since these were more symbolic than structural, they are not able to effectively and sustainably guarantee the freedom of information and expression. Problems endure and the treatment of Burundian journalists in exile since 2015 remains an area of concern.

a) The release of Iwacu journalists

125. One of the most notable decisions made by the President is the release, on 24 December 2020, of four journalists of the Iwacu independent press group: Agnès Ndirubusa, Christine Kamikazi, Térence Mpozenzi and Egide Harerimana.[[29]](#footnote-30) They were arrested on 22 October 2019 as they were covering reports of armed clashes that occurred that very morning in the province of Bubanza. On 30 January 2020, they were sentenced for “a failed attempt of complicity in undermining the internal security of the State” to two and a half years in prison and a fine of one million Burundian francs each. The verdict was upheld on appeal on 6 June 2020.[[30]](#footnote-31)

126. President Ndayishimiye granted them presidential pardon, which was, in effect, a sentence reduction by 16 months but which did not overturn their conviction nor did it cancel the fine imposed.[[31]](#footnote-32) The Burundian authorities did not recognize their innocence nor the arbitrary nature of their arrest and detention for one year and two months.

b) The lifting of sanctions against some media

127. On 28 January 2021, during a two-day workshop organised for media professionals called “Never without the media”, President Ndayishimiye recalled the importance of their role in safeguarding the national cohesion and in the pursuit of sustainable development objectives. He reaffirmed “his engagement for a free and responsible press” in Burundi and requested the National Council for Communication (CNC) to meet with the representatives of the sanctioned or suspended media in the country in order to find solutions for them to resume their activities.[[32]](#footnote-33)

128. On 1 February 2021, the CNC did meet the representatives of sanctioned or suspended media behind closed doors for an “initial contact”, specifically with the international radio stations BBC and VOA, radio Bonesha FM, Iwacu press group and online media Ikiriho and Nawe.[[33]](#footnote-34) The president of CNC underscored that the issue of exiled journalists accused of participating in the failed coup d’état of 13 May 2015 was not under the purview of CNC. On 12 February, the sanctions against the Iwacu independent press group were lifted by CNC, namely by the opening of the comments section,[[34]](#footnote-35) while restrictions against direct access to the Iwacu site from Burundi were maintained since its access requires the use of VPN or mirror site.[[35]](#footnote-36)

129. On 19 February 2021, CNC lifted the sanctions against radio Bonesha following management change - since the former director was under prosecution by the Burundian judiciary in case number RPS 100[[36]](#footnote-37) - and the signature of guidelines according to which the new management commit to “make all pertinent provisions to avoid any professional errors which would contravene the applicable rules and regulations in Burundi”.[[37]](#footnote-38)

130. On 21 April 2021, during its extraordinary assembly, CNC announced that four media groups were authorised to reopen the: radio Voix de la réconciliation, radio television Burundi Bwiza, television Isanganiro and Kazoza radio and the online television *ijwi ry’ukugwiza umwimbu.* However, on the same day, CNC highlighted failings and professional errors by some media groups and underscored that the Iwacu press group had published on 6 March 2021 “an article that was ill-conceived in relation to a public conference by video, in which opposition political actors had participated” and, despite the promise of Iwacu director “to correct this error”, CNC said that it will pursue its investigation in this case. The article in question talked about the virtual meeting organised by the Mouvement d’action patriotique (MAP) on the future of Arusha Agreement and the risks that it becomes utterly obsolete.

131. On 5 June 2021, it was announced that the online media Ikiriho would resume its activities.[[38]](#footnote-39) This newspaper, known to be close to power, was suspended on 12 October 2018 by the Attorney General, officially due to a defamation complaint by a bank that Ikiriho had accused of money laundering, but most likely because of internal strife within CNDD-FDD.[[39]](#footnote-40) The online newspaper effectively resumed its activities on 16 June 2021.[[40]](#footnote-41)

132. On 16 June 2021, the National Council for Communication announced that “there are no obstacles for the BBC World Service in Burundi to submit a new operation license request in line with proper procedures”.[[41]](#footnote-42) As a reminder, the BBC was suspended by CNC on 29 March 2019 to sanction the broadcast of the documentary “*Kamwe*” revealing the existence of secret detention centres throughout the country where illegally detained persons were tortured, then executed by members of the intelligence service (SNR). According to CNC, that report was “misleading, scurrilous and scathing for Burundi”.[[42]](#footnote-43)

133. In contrast, the Committee for the protection of journalists reported that the international radio Voice of America (VOA), suspended since 2019, would only resume its activities after the case against one of its journalists prosecuted by the Burundian justice is “resolved”.[[43]](#footnote-44)

c) Sentencing of journalists in exile

134. In the context of its quasi-openness to the press, the Burundian government did not really address the fate of Burundian journalists who fled their country since 2015 and of Burundian media suspended in that year such as Radio publique africaine (RPA) and Télé Renaissance. On the contrary, recent developments on the judicial level seem to close the door to any possible return or resumption of activities.

135. On 2 February 2021, the Supreme Court in Burundi publicly posted – as part of athe notification for execution toprocess when the address is unknown - its decision dated 23 June 2020 in case file RPS100,[[44]](#footnote-45) in which 34 “putschists who fled the country”, including seven journalists, accused of having taken part into the failed attempted coup d’état of 13 May 2015, against whom international arrest warrants were issued on 2 February 2016 by the General Secretary of the Supreme Court.[[45]](#footnote-46) Amongst those accused in this case, all of whom are in exile, there are also representatives of the civil society and lawyers engaged in human rights, CNDD-FDD *frondeurs*, as well as military personnel.

136. All the accused were convicted of undermining State authority, killings, and destructions. They were then sentenced to life imprisonment as well as a ban from public service or holding a professional or social activity for 20 years and a collective fee - together with the 21 military officers condemned in May 2016 in another case[[46]](#footnote-47)- over 5.5 billion Burundian francs (USD 2.8 million[[47]](#footnote-48)) in reparation to the State, the party CNDD-FDD, the radio television Rema FM and others. The Court indicated that their property and assets, seized in May 2019,[[48]](#footnote-49) would be sold to pay for the required damages. The auctioning of assets seized in May 2019 was indeed organised from 11 to 14 November 2020[[49]](#footnote-50) even before the publication of the Supreme Court sentence.

d) Harassment of journalists

137. Despite President Ndayishimiye’s speech in favour of the freedom of the press, the practise of attacking journalists who dare criticise the government or its actions or reveal corruption or bad governance amongst some caciques of the regime persists.

138. For example, in May 2021, a story about the death of a young student at the University of Bujumbura was extensively covered in social media in Burundi. According to some reports, the student “died of hunger”. He was from a poor family in the interior of the country and had not received the student grant that was outstanding for several months, as was the case for several other students, due to dysfunctional processes within the public administration body responsible for issuing university scholarships. The former spokesperson of President Nkurunziza, who is currently the head of the political and social cultural affairs at the Presidency of the Republic, fully recognised and detailed the dysfunctions and the red tape that cause significant delays in the disbursement of university grants, while violently criticising the people and the journalists who denounced this situation. In a long message published on his Facebook account he said:

“*10. As a Burundian consumed by patriotism, I think that no one ought to offload his responsibilities when the image of our nation and the reputation of our leaders are tarnished often by a group of power hungry, troublemakers or imperialists.*

*11. The local press and communicators should have done a better job to explain this exception. We each have our own tool and responsibility to defend the honour of our country and to stop our detractors in their tracks*”.[[50]](#footnote-51)

139. These statements perfectly illustrate the ambivalence of the Burundian authorities who affirm their support for the freedom of the press but consider criticisms as attacks on the image of Burundi and its leaders. Similarly, independent media and/or media in exile which reported the security incidents were suspected or accused of complicity with the perpetrators of these incidents and were openly threatened, including by people close to some authorities.[[51]](#footnote-52) The ordeal of the four journalists of Iwacu is undoubtedly still vivid in the minds of journalists.

140. In the absence of substantial reforms to effectively guarantee the freedom of information and protect journalists in the exercise of their profession, self-censure remains the order of the day for Burundian journalists who, sometimes, may have been threatened. They assess on a daily basis their room of manoeuvre, which is left to the goodwill of local authorities. They feel monitored, including their movements and CNC does not hesitate to summon them to explain themselves. They know they can be accused, at any moment, of disseminating information that the Government or the local authorities wish to hide.[[52]](#footnote-53) If lately, the attitude of the local authorities towards journalists seems to be a little more relaxed, as explained by the Iwacu journalists who went to collect information on the attacks of vehicles on 26 June 2021,[[53]](#footnote-54) the fact is that the situation is still precarious and arbitrary restrictions remain a possibility.

A journalist explained:

“*I am still threatened by […] of the police, […] of SNR […] and by some members of the party CNDD-FDD, Imbonerakure. They accuse me of providing information which in turn is disseminated on social media and on radio in Rwanda. I am suspected because of the information that is shared*”.[[54]](#footnote-55)

141. The official media have long stopped having a critical stance and refuse to express the slightest reservation or question government action, let alone mention security incidents such as the grenades launched in several areas in Bujumbura on 26 May 2021 nor the human rights violations, including the dead bodies regularly found on public roads.[[55]](#footnote-56) The celebration of the first anniversary of President Nkurunziza’s death and President Ndayishimiye’s inauguration was marked by a propaganda operation by the official media in favour of these two personalities.[[56]](#footnote-57)

e) Revision of the Press Law

142. On 28 June 2021, the Minister of Communication, Information Technology and Media launched a consultation process workshop on the revision of the 2018 press law.[[57]](#footnote-58) According to publicly disseminated information, the objective of this workshop was to build capacity amongst online media and grassroot radios for which the provisions of the existing law are lacking; but also, to stop the dissemination on social media of “content that is contrary to the Burundian culture”. The only true structural change tends towards reinforcing the control on the content of the press.

3. Situation of the Civil Society

[…]

144. Since the inauguration of President Ndayishimiye, there has been some positive changes with regards to the civil society, but, generally, they are ad hoc symbolic gestures. For example, on 2 April 2021, the Minister of the Interior, Community Development and Public Security authorised the organisation PARCEM (*Parole et actions pour le réveil des consciences et l’évolution des mentalités*) to resume its activities.[[58]](#footnote-59) This organization was temporarily suspended in June 2019 for having “tarnished the image of the country” by presenting a critical report on the socio-economic conditions.[[59]](#footnote-60) PARCEM has since resumed its activities and has presented a plan for economic recovery to fight widespread poverty in the Burundian population, which specifically includes infrastructure building and the fight against corruption.[[60]](#footnote-61)

a) The release of human rights defenders

145. On 27 April 2021, the human rights defender Nestor Nibitanga, a former collaborator of the Association for the protection of human rights and detainees (APRODH), was released following a presidential pardon after four years of arbitrary detention.[[61]](#footnote-62) As a reminder, Nestor Nibitanga had been arrested on 21 November 2017 and sentenced on 13 August 2018 to a five-year prison term because of his activities within APRODH - before the latter was de-registered by the Government in 2016 – which were abusively qualified as “undermining the internal security of the State”, following a trial marked by irregularities and violations of the fundamental rights of the accused.[[62]](#footnote-63)

146. On 30 June 2021, Germain Rukuki, another human rights defender, former member of ACAT-Burundi who was arbitrarily detained since July 2017,[[63]](#footnote-64) was also released following his second appeal trial held on 24 March 2021. In fact, in June 2020, the Supreme Court overturned the ruling on the first appeal dated 17 June 2019 which upheld its initial sentence to 32 years in prison. In its ruling adopted on 4 June 2021 but published only on 21 June 2021, the court of appeal of Ntahangwa acquitted him of the charges of “participating in an insurrectional movement”, “undermining the internal security of the State” and “attacking the authority of the State” but pronounced him guilty of “rebellion” and sentenced him to one year in prison and a fee of 50,000 Burundian francs (USD 25) plus legal fees.[[64]](#footnote-65) Since Germain Rukuki had been detained for four years already, he should have been immediately released as he had already served his sentence. Despite this, his release only came a week later and after pressure and requests for his release by the civil society,[[65]](#footnote-66) the CNDIH[[66]](#footnote-67) and the European Union.[[67]](#footnote-68)

b) Tighten monitoring of the Civil Society

147. However, the Government has taken measures aimed at tightening further the control over the activities and the operations of the civil society organisations rather than truly reopening the democratic space and allowing them to operate freely. In fact, the Burundian authorities consider that the civil society is only there to support them, thus denying the very principle of freedom of association which includes the freedom to decide the objectives pursued and the means used to that end.

148. For example, the Government has decided to limit the operating costs of the projects financed by technical and financial partners, specifically by aligning their salaries to those in the Burundian public service.[[68]](#footnote-69) Henceforth, a salary scale harmonizes managers’ and staff salaries as well as projects operating cost within, specifically because the disbursed funds must go towards “investment projects aligned to priorities indicated in the national development policy and not towards operating fees”. Since the “workload is similar to the one in public administration and Burundian public establishments”, the Government considers that “the excessive level of remuneration within these projects is not justified”. It also holds that the “performance in projects financed by technical and financial partners is questionable given delays in project execution, with requests for deadline extensions, notable disputes as well as unauthorised expenses that the State is required to pay in some cases”. Finally, it considers that the “salary disparities within projects funded by financial and technical partners are not justifiable in a national context seeking to re-establish salary equity by putting in place an equitable salary policy in the Burundian public administration”. Hence, the staff working in these projects must be remunerated “at the same level as the going rate in the highest paying Burundian public establishments”.[[69]](#footnote-70)

149. On 25 November 2020, during the Ministerial Council, President Ndayishimiye added that projects funded by technical and financial partners are “for the Burundian State and the Ministers must follow them closely. The funds awarded to these projects must be spent for their realisation and not as operating costs. That is why, for future projects, their design and implementation will be done by the State. The project managers must know that they are serving the State and not the partner who financed the project”. [[70]](#footnote-71)

150. In February 2021, the Minister of the Interior, Community Development and Public Security sent a letter to representatives of foreign NGOs active in a province to notify them of a visit by a ministerial delegation responsible to inspect their realisations mentioned in the periodic reports and to collect information such as project structure, frequency in the preparation and the transmission of activity reports of international NGOs to Burundian authorities, the communication of their action plan and the organisation’s budget, the staff ethnic and gender composition, the verification of expatriates contracts and salaries as well as the involvement of Government appointed recruitment committees in their recruitment process.[[71]](#footnote-72)

151. On 5 May 2021, the Minister of Foreign Affairs and Development Cooperation refused, with no explanation, to extend the contract of a legal representative of a foreign NGO.[[72]](#footnote-73)

**c) Persistent mistrust and hostility towards the civil society**

152. On 13 October 2020, Tony Germain Nkina, a lawyer representing APRODH in Kayanza province until the organisation was suspended by the Government in 2015,[[73]](#footnote-74) was arrested in Kabarore commune. As part of his professional activities, he had gone to meet with one of his clients to advise him on a matter related to a land dispute. After having been briefly detained by the intelligence services in Kayanza; he was transferred to the police and then to the prison in Ngozi. On 15 June 2021, the tribunal of first instance of Kayanza declared him guilty of “collaborating with the rebels who attacked Burundi” and sentenced him to five years in prison and imposed a fine of one million Burundian francs (USD 500). His client, Appolinaire Hitimana, was also arrested and found guilty of complicity in the same infraction and sentenced to a two and a half years prison term and a fine of 500,000 Burundian francs (USD 250). As a reminder, at the beginning of October 2020, several security incidents occurred, specifically in Kayanza province. Without providing any evidence, the prosecutor accused him of having been to Rwanda to provide information to the President of APRODH, Pierre Claver Mbonimpa, who lives in Europe, and RED-Tabara.[[74]](#footnote-75) This former human rights defender is apparently detained primarily because of his past involvement with APRODH.

153. A palpable sense of mistrust and hostility towards the civil society organisations from the authorities, who often represent the civil society organisations as predators, capturing funds from technical and financial partners, inefficient and even harmful. For example, the Speaker of the National Assembly declared: “Sangwe cooperative is the basis of wealth accumulation at the level of *collines* and provinces. These not-for-profit associations no longer have a place in Burundi given the strong desire for development”.[[75]](#footnote-76)

154. It is therefore not surprising that in such a context, some foreign NGOs adapt to the Government’s demands and go the extra mile to please the authorities.[[76]](#footnote-77)

155. As a reminder, five lawyers and/or representatives of human rights NGOs, who were accused of having taken part in the failed attempted coup d’état on 13 May 2015, were found guilty of undermining State authority, murders and destruction and sentenced to life imprisonment by the Supreme court. They were prosecuted along with seven journalists,[[77]](#footnote-78) CNDD-FDD *frondeurs* as well as military officers in the case RPS100.[[78]](#footnote-79) They were sentenced in absentia and without legal representation. Their assets and properties, seized by the judicial authorities in May 2019,[[79]](#footnote-80) were auctioned off between 11 and 14 November 2020,[[80]](#footnote-81) in order to pay 5.5 billion Burundian francs (USD 2.8 millions) of damage and interests to the State, CNDD-FDD party, Radio television Rema FM and others.

4. Situation of opposition political parties

[…]

157. During this mandate, the Commission documented cases that confirm its conclusions presented in its previous reports on the use of torture, including torture of a sexual nature, in the context of the 2020 elections,[[81]](#footnote-82) specifically cases of gang rape against women during the 2020 elections by Imbonerakure.[[82]](#footnote-83) The victims, single women, or women whose husband disappeared as a result of harassment or kidnapping by Imbonerakure, were targeted following their refusal to adhere to CNDD-FDD during the electoral campaign.[[83]](#footnote-84) The perpetrators in these incidents of rape had accessories or T-shirts adorned with CNDD-FDD signs, that the victims identified as Imbonerakure, some of whom were their neighbours. Like cases of politically motivated sexual violence documented in previous mandates, these instances were the culmination of a period of intimidation and harassment by Imbonerakure. In two cases, they led to pregnancy which aggravated the victims’ material and mental distress. None of the victims dared report the facts to the authorities, and they fled Burundi as soon as they had a chance.

158. At the end of the elections, several abusive restrictions and violations of the freedoms of association and peaceful assembly and the freedom of expression targeting opposition parties, namely CNL, such as the prohibition to organise rallies and assemblies or to open offices, decreased. Logically, this results from the fact that CNL reduced its activities after the elections and no longer represents an imminent “threat” for the ruling party, especially given that it does not participate in the Government nor in the National Assembly, despite the fact that CNL won more seats that the party UPRONA which; nevertheless; was chosen to appoint the second vice president of the Assembly.[[84]](#footnote-85)

a) Abusive restrictions to the freedom of association and assembly

159. Nevertheless, incidents were reported in several provinces: several CNL offices were vandalised, specifically, in June 2021,[[85]](#footnote-86) although the party had closed down many of its offices after the elections for financial reasons. It is still difficult for CNL, even impossible in some communes, to organise meetings, as was the case for the celebration of the party’s 2nd anniversary which was interrupted and prohibited in at least one area.[[86]](#footnote-87)

A witness recounted:

“*It was first the* chef de colline *who refused the party militants to proceed with the setup of the celebration venue. He asked […] to stop everything and said that the celebration was not going to take place. He was very unhappy to see the militants mobilised and he started to vandalise the sheds erected for the celebration*”.[[87]](#footnote-88)

A CNL militant explained:

“*We cannot even open our offices and stay there for five minutes without the permission from the communal administrator. He instructed the police agents to arrest any person that they find in a CNL office without his authorization”.*[[88]](#footnote-89)

160. Opposition party militants were also harassed or mistreated by Imbonerakurre in retaliation for their political engagement and others were intimidated in order to force them to join CNDD-FDD.[[89]](#footnote-90) Imbonerakure have continued to march while chanting songs hostile to political opponents, sometimes under the guise of physical training, in some rural *collines.*[[90]](#footnote-91) A witness reported words used by Imbonerakure as they were subjecting CNL members to ill-treatment:

“*The mere fact that one is a member of the party provokes their revulsion. While beating them, the Imbonerakure were saying: what did Rwasa give you? Why do you continue to support him? Why do you not leave him?*”.[[91]](#footnote-92)

b) Violations of the right to liberty and physical integrity

161. Some CNL members were arbitrarily arrested and detained under various pretexts; in retaliation for their political activities, such as the collection of members’ contributions or for holding “illegal” meetings. At times, they were tortured or ill-treated during their arrest and detention although, generally, the number of cases has decreased after the elections before increasing again from June 2021, specifically in relation to the fight against rebel groups.[[92]](#footnote-93)

A person explained:

“*On our* colline*, CNL members are ill-treated and there is no possible redress. They have nowhere to go to file a complaint or seek redress. If you commit a minor offence and you are a CNL member, they will blow it out of proportion. There is a CNL member who took chicken that did not belong to him because they had come into his field of beans. They belonged to his neighbour. Because he was a CNL, he was arrested and jailed. He is still in detention. They fined him 50,000 Burundian francs [USD 25] and damage and interests payable to the chicken owner*”.[[93]](#footnote-94)

In relation to a CNL member arrested in January 2021, another said:

“*They had nothing against him but his* colline *had massively voted for CNL and following what happened to [X], I think they wanted to scare those who would want to join or who were already CNL members”.*[[94]](#footnote-95)

c) Violations of the right to life

162. Active CNL members were victims of enforced disappearance in the months following the elections; they were last seen being taken by State agents or Imbonerakure. Although at least one person was later found in detention, the fate of other victims remains unknown.[[95]](#footnote-96)

163. For example, Oscar Nahimana, a CNL member who was the Vice-President of the independent communal electoral commission in Kirundo commune and province during the 2020 elections, is reported missing since 28 September 2020. He was arrested by local CNDD-FDD representatives because he had refused to sign documents related to the certification of communal elections and disappeared since then. The authorities did not order an investigation despite requests at several levels by the CNL officials. To this day, his fate remains unknown.[[96]](#footnote-97)

164. The disappearance of Elie Ngomirakiza is another case. He was the CNL representative in Mutimbuzi commune, Bujumbura province (rural). He was last seen on 9 July 2021 being taken by military personnel. In the past, he was harassed and arrested for his political engagement. CNL party inquired from the authorities and CNIDH about him, but to this day these inquiries have been unfruitful.[[97]](#footnote-98)

165. Given these recent cases, that were reported to the Burundian authorities and CNDIH, the Commission is surprised that, on 14 July 2021, the President Ndayishimiye claimed not being aware of cases of enforced disappearance stating: “In any case, as far as I know, there are no disappearance in Burundi. Otherwise, you would tell me that ‘so and so has disappeared’ […]. People say they disappeared, but I know they are somewhere” [[98]](#footnote-99); and, on 28 July 2021, the Attroney-General said that the allegations about disappearances are “lies” because people go to join armed groups without telling their families, which explains why the families erroneously believe that that person has disappeared.[[99]](#footnote-100) As a reminder in its 2020 annual report, CNDIH did not report any case of disappearance even though the case of Oscar Nahimana occured during this reporting period.

d) Political intolerance and hate speech

166. By and large, hate speech towards opponents has been replaced with official appeals for political tolerance. However, statements which tend to liken opponents to “enemies of the country” come up from time to time. President Ndayishimiye has been indecisive on this issue, recognising the freedom of expression of political parties and then denouncing those who do not support the Government as “agents of foreign States”[[100]](#footnote-101). He therefore seems to tolerate political opposition only when it accepts to work with his Government. On 8 June 2021, in his speech delivered during the ceremony to end the mourning period for late President Nkurunziza and commemorate the “National Day for Patriotism”, President Ndayishimiye stated: “Whoever is dissatisfied with his achievements [of late President Nkurunziza] for Burundi and Burundians is simply possessed by the devil and is only thinking of doing evil”.[[101]](#footnote-102)

167. The ambiguous position of President Ndayishimiye on political parties and their role is clearly expressed in these excerpts from his message delivered on 6 January 2021 to representatives of registered political parties during the exchange of New Year wishes: “In the past, political parties would argue during and after elections and members would glare at each other after elections. Previously, we talked of Government allies and the opposition. Back then, we had forgotten that fighting the Government is fighting the country [...] The opposition considered that as a badge of honour. We are not fulfilling our duty: serve the country by respecting others, strengthening security, and contributing to development”.[[102]](#footnote-103) He further added: “The defeat of a party after an election does not mean its disappearance. You (politicians) are not opponents but rather those to right wrongs and provide counsel since you know a great deal about politics”.[[103]](#footnote-104) Accordingly, on 20 August 2021, all registered political parties, with the exception of CNL, participated in a workshop organised by the Government of Burundi, under the leadership of the Minister of the Interior, Community Development and Public Security, to develop their political programmes and ensure that they comply with Government’s 2018-2027 development plan.[[104]](#footnote-105)

168. Opposition Members of Parliament who had dared to question Government’s actions paid the price for this distrust of the political opposition, which is deeply harboured by CNDD-FDD dignitaries. For instance, the former Member of Parliament, Fabien Banciryanino, one of the rare critical voices under the regime of President Nkurunziza, was arrested on 8 October 2020 and prosecuted for rebellion, slander and undermining the internal and external security of the State. On 7 May 2021, he was sentenced to one year imprisonment. On 26 May 2021, during the presentation of the 2020 annual report by the Ombudsman,[[105]](#footnote-106) a CNL Member of Parliament, Nicodème Nduwimana, was indirectly threatened by the Speaker of the National Assembly for statements made inside the Assembly. The Member of Parliament had simply asked the Ombudsman if he was aware that prisoners who had served their sentences were still detained. The Speaker of the Assembly interrupted him to ask if he was pleading the case of “persons who were throwing grenades once out of prison, as the day before in Bujumbura”.[[106]](#footnote-107)

169. If political violence seems to have reduced overall, it is however not a sign of an improvement in political tolerance. No structural measure has been taken to guarantee that those guilty of violence committed during elections are punished or to prevent such practices from recurring, especially during the next elections.[[107]](#footnote-108) Imbonerakure had received instructions after elections to stop violence against opponents,[[108]](#footnote-109) though they can be mobilised at any time by the authorities and the CNDD-FDD party, as was the case in certain provinces following security incidents.[[109]](#footnote-110)

170. Since the armed attacks of spring 2021, CNL members are once again closely monitored in some areas by the Imbonerakure. In some provinces, the number of cases of arbitrary arrests and detention, torture and ill-treatment, kidnappings, and the disappearance of CNL militants has increased since June 2021 and throughout summer 2021, often under the pretext of the fight against armed groups. As previously indicated, considering the opacity of these procedures, it is impossible to determine if, for each case, the authorities have objective evidence or if they primarily go by their political affiliation.[[110]](#footnote-111) The Commission however has reasonable grounds to believe that a significant number of political opponents have been victims of violations under the guise of tracking down the perpetrators of armed attacks.

C. Situation of returnees

[…]

a) Atmosphere of mistrust towards returnees

175. Since the 2020 elections, the atmosphere of hostility and suspicion towards returnees has reduced to a certain extent, especially thanks to instructions apparently given to administrative officials to ensure the best reception for returnees, since this is of crucial importance for the massive return of refugees as desired by the Government.[[111]](#footnote-112)

A returnee explained:

*“We were not harassed by administrative authorities. It is clear that they had been given instructions. I don’t know the exact instructions they received but I see a clear difference in the way communal and provincial authorities receive us when we share with them the issues we encounter. Local authorities are much more distrustful towards us”*.[[112]](#footnote-113)

176. However, according to the UNHCR, 22% of returnees consider that the security situation in Burundi has not improved since they fled the country. They are also facing stereotypes and widespread prejudices within local communities, as well as discrimination and harassment, which are affecting social cohesion and their access to rights and/or services. The situation has become worse with the COVID-19 pandemic and the misperception that returnees are “virus carriers”.[[113]](#footnote-114) In June 2021, the Conference of Catholic Bishops regretted that “returnees are not well received in certain areas of the country and are intimidated and oppressed by those who should help them to integrate into society”.[[114]](#footnote-115)

177. In this context, the Commission received testimonies about returnees who have continued to face general distrust from local authorities and Imbonerakure.[[115]](#footnote-116)

A returnee explained:

“*When we arrived at the [X] commune, we noticed that things are not good as they had said. People who had not fled considered us with distrust. The Imbonerakure asked a lot of questions especially as I had left my parents and my brothers and sisters in Rwanda. They asked me why they had not returned”.*[[116]](#footnote-117)

178. People who had been politically active in the past and who did not return as part of the official voluntary repatriation programme have continued to be suspected of collaborating with armed groups and have been pursued. Some have been tortured by the Imbonerakure, especially those coming from Rwanda.[[117]](#footnote-118) Sometimes, the fear of being arrested or killed compelled refugees, including those who came on their own to access the situation, to return to their host country.[[118]](#footnote-119)

A witness recounted:

*“Following grenade attacks in Bujumbura in May 2021, refugees who came from [...] were hunted down. Information was circulated that claimed refugees from [...] were responsible for that. A neighbour told me that my name had been given to the intelligence service since refugees from [...] were wanted persons. One day when I was not home, the intelligence service came to where I was living [...] I analysed my situation. I could not go to my place; I could not go to [X] or to Bujumbura. I took the decision to return into exile”*.[[119]](#footnote-120)

Another witness, arrested and questioned by the National Intelligence Service explained:

*“They asked me the same questions about the camp, rebellion, etc. I told them I had no information on that. I told them that after all the years spent in the camp, I had heard that peace had returned, and I therefore decided to return. I had no other reasons to return. They told me that I was hiding things from them, that I had come to have a look around, that I had come to lay the groundwork for rebels. […] When I denied that was the case, they hit me and only stopped when I was no longer able to respond. [...] They were hitting me everywhere. I even received a blow on the head close to my ear. I still feel pain in that area”*.[[120]](#footnote-121)

[…]

D. Situation of the population in general

[…]

2. Major human rights violations against the population

a) Forced contributions

207. In the past, the Commission extensively documented this common practice of asking the population to pay the so-called voluntary and sometimes obligatory contributions, under coercion, for the ruling party CNDD-FDD and for the organisation of the 2020 elections. These contributions which often have no legal basis and whose total amount and use are almost impossible to verify, have a direct impact on the right to an adequate standard of living of the population, the majority of which live in extreme poverty.[[121]](#footnote-122)

208. Since the inauguration of President Ndayishimiye, the population has continued to be compelled to pay contributions in order to finance public infrastructure, contribute to development or support the ruling party, otherwise they might be denied access to public services and places, or might not be issued administrative documents.[[122]](#footnote-123) The Minister of the Interior, Community Development and Public Security has recognised and denounced the existence of such practices by certain communal and provincial authorities.[[123]](#footnote-124)

A witness explained:

*“We have to contribute at barriers where we are ordered to give money. Those demanding money are the Imbonerakure. You are given a receipt and then you no longer have to pay. They did that in January 2021. We gave 500 Burundian francs [USD 0.25]. […] That was already the case last year. There was no established frequency. Sometimes you can be asked 1 000 Burundian francs, and then 500 Burundian francs three months later. You were told that it is for development or for their party. If you did not have the amount, you had to give something in exchange. For instance, beans. I don’t know if these are official receipts. […] The amount is for one household”.*[[124]](#footnote-125)

209. For instance, “voluntary” contributions were collected from civil servants in at least one province to finance a football competition in honour of late President Nkurunziza[[125]](#footnote-126); people were threatened for not giving enough to CNDD-FDD[[126]](#footnote-127); the Governor of the Cankuzo province compelled civil servants to buy loincloths to celebrate Labour Day ;[[127]](#footnote-128) Imbonerakure went from house to house to collect “voluntary contributions” organised in August 2021 on the occasion of the days dedicated to “local solidarity” and “the communal celebration”.[[128]](#footnote-129)

210. The Governor of the province of Rumonge stated that he “is building a new governor’s office. The building will have two floors. The estimated cost of the office is about 1.3 billion Burundian francs [USD 666 000]. However, it has been observed that this amount will be exceeded. […] The money is mainly coming from the population. The deadline for the payment of at least 2 000 Burundian francs [USD 1] by each person from Rumonge, aged 18 years, is set for 15 May 2021. Communiqués have been issued and meetings organised. […] Enforced recovery? I have not heard about that. We are using communiqués. The heads of *collines* have payment receipts. Administrators are simply monitoring. […] In the area of development, nobody should drag their feet. […] Those who drag their feet are considered enemies of development. There is no democracy involved in this type of work. That should be understood. We have to comply. Everybody must comply”.[[129]](#footnote-130)

211. The Governor of the Muyinga province declared that he is constructing a governor’s office to the tune of 1.8 billion Burundian francs (USD 915 000) mainly financed by the so-called voluntary contributions[[130]](#footnote-131). In this same province, works for the construction of the Muyinga commune office, executed thanks to “voluntary” contributions from the population, were launched on 21 August 2021.[[131]](#footnote-132)

b) Violence perpetrated by the Imbonerakure

212. Since the accession to power of Evariste Ndayishimiye, the number of violent incidents involving Imbonerakure has reduced in several provinces following orders they received to this effect and the President’s appeal to them to focus on the development of the country and stop substituting themselves to law enforcement and security forces.[[132]](#footnote-133) However, in border regions and areas where the September 2020 armed attacks were carried out, the Imbonerakure have remained mobilised by the authorities to ensure security, especially within joint security committees. They have therefore continued to commit violence, especially during night patrols when they have the opportunity to rob people they come across.[[133]](#footnote-134) Moreover, on 30 June 2021, defence forces received an internal written order to rely on “armed political movements” in order to disrupt the activities of armed groups, which is almost an official recognition of the fact that CNDD-FDD’s youth league is armed and supports defence forces.[[134]](#footnote-135) In this perspective, firearms were distributed to Imbonerakure during the last months.[[135]](#footnote-136) Moreover, the Imbonerakure have continued to harass and intimidate persons so that they join the ruling party, though to a lesser extent than in the past.[[136]](#footnote-137)

213. The Commission received credible allegations according to which some of the Imbonerakure might be dissatisfied and frustrated by President Ndayishimiye’s new approach, which has made them lose power and above all their main source of income. Some would even be questioning their loyalty to the President and CNDD-FDD, and therefore could create a risk of becoming loose cannons, and in the short and medium term, uncontrollable criminal forces.[[137]](#footnote-138)

c) Arbitrary arrests

214. The Commission received credible allegations on cases of arbitrary arrest of Burundian citizens, notably during legal set-ups. For instance, people are regularly arrested during massive searches and seizures if their household record booklets (*cahiers de ménage*) are not up to date or have the slightest irregularity, or during disputes between neighbours, in which cases they would then have to pay a particular amount to police agents in order to be released.[[138]](#footnote-139)

d) Corpses found in public areas

215. Several corpses have been regularly found in public areas, especially close to roads or rivers. Local authorities have continued to bury them immediately without seeking to identify the deceased persons or conduct investigations on the causes of death and those accountable, whereas most of the remains showed signs of violent death.[[139]](#footnote-140) According to the Ligue Iteka, 554 persons, including 118 women, were killed during President Ndayishimiye’s first year in power. The remains of 250 of them were found in public areas.[[140]](#footnote-141)

216. Due to serious shortcomings from the authorities in the face of this phenomenon, it is impossible to distinguish cases that constitute violations of the right to life attributable to agents of the State or the Imbonerakure, from those that fall under common law such as murder linked to land or family disputes or frequent villainous crimes which are committed with impunity, especially when victims belong to an opposition party. The conduct of the authorities constitutes a violation given that by refusing to open credible and impartial investigations on these cases, they flout their obligation to protect the right to life and to effective remedy. Their persistent silence in the face of this phenomenon can even be interpreted as implicit acquiescence to these practices, especially when victims are not CNDD-FDD members.

E. Situation of the judicial system

1. Persistent dysfunction in judicial institutions

217. Several cases of dysfunction in the judicial system have been observed in the past,[[141]](#footnote-142) particularly corruption, influence-peddling, the interference of various authorities and CNDD-FDD members, failure to respect legal procedures and deadlines, failure to execute court decisions, particularly those concerning provisional release or following acquittal, and persistent inertia in certain procedures. Victims of violations are deprived of the right to effective remedy, with interventions to protect perpetrators who are close to the ruling power. In several cases, victims or their family members have been threatened and intimidated, which has discouraged them from continuing the procedures.[[142]](#footnote-143)

218. President Ndayishimiye and his Government have finally become aware of these problems and have denounced rampant corruption, slow procedures, and non-execution of court decisions. For instance, the President of the Republic stated that the justice reform was one of the priorities of his Government, and its main components include the status of the Supreme Council of the Judiciary, the re-establishment of the council of notables in *collines* and the end of the principle of recourse action against civil servants guilty of offences committed in the performance of their duties.[[143]](#footnote-144) On 2 October 2020, during the launch of the 2020-2021 judicial year, the President of the Supreme Court, the Attroney-General and the Minister of Justice underscored the legal, material and human challenges faced by the judicial system, notably “corruption, abuse of power by some senior dignitaries, lack of material and human resources, adaptation of the Penal system and Code to current realities, and loss of traditional intrinsic values”. On 27 July 2021, the Speaker of the Senate requested that the judiciary should work for the good of the population “by avoiding corruption which is crippling the justice sector. He reprimanded the poor behaviour of certain judges who demand bribes from litigants and called for exemplary sanctions against them”.[[144]](#footnote-145) Finally, on 24 August 2021, during a moralization session on good governance and patriotism for the Burundian judicial system, President Ndayishimiye stated that there is evidence that “this sector is plagued by several ills and imperfections especially with regard to corruption, economic malpractices, etc”.[[145]](#footnote-146) He even added: “Everywhere I go I receive over 1 000 complaints against the judicial system per day. After analysing them I find that the complaints are founded. Foreign investors are no longer coming to Burundi. You find tricks to rob them of their money. They have nowhere to go and complain. You gang up to swindle them out of their money […]”.[[146]](#footnote-147)

219. However, instead of taking structural measures to address these issues, such as those recommended by the Commission, Burundian authorities have preferred to tackle the principle of the independence of the judiciary, including the principle of security of tenure for judges.[[147]](#footnote-148) In July 2021, the Minister of Justice, Jeanine Nibizi, emphasized that “Government will never tolerate judges who hide behind the privilege of the independence of the judiciary to make unlawful and hasty decisions, due to corruption and favouritism”. She also seized the opportunity to warn Gisuru judges against these shortcomings. She urged them “to interpret the law such that judgements are pronounced in accordance with the law and to rapidly enter into force the trials that have already been ended”.[[148]](#footnote-149) In August 2021, the Minister reiterated her barely veiled criticisms and threats against judges during her visit to the Prison of Gitega which had been partially consumed by fire.[[149]](#footnote-150) Such decisions and statements can only contribute to further undermine the judicial system and the rule of law.[[150]](#footnote-151)

**2. Increased control of the Judiciary by the Executive**

220. On 23 January 2021, a new law was promulgated which institutes a council of notables at the level of each *colline.*[[151]](#footnote-152) The mission of the council, whose 15 members are elected for an indefinite term, is to receive complaints and provide counsel on all civil matters that fall within the jurisdiction of local courts, and to reconcile conflicting parties when the dispute does not fall within “public order and good morals”. It may also “address a conflict resulting from an offence” by deciding to award damages.[[152]](#footnote-153) However, the council cannot pronounce sentences.[[153]](#footnote-154) The agreement that has been reached and approved following the reconciliation process becomes enforceable and constitutes a final judgement.[[154]](#footnote-155) If reconciliation fails or if one of the parties to a dispute feels aggrieved, they may refer the matter to the local court which is not bound by the opinion of the council of notables but must provide reasons for the possible rejection of this opinion. A local court before which a civil case is brought should first ensure that the case was referred to the council of notables.[[155]](#footnote-156)

221. A new lower court was therefore created for civil cases at the level of *collines*, with “notables” designated by means of an election, which leads to a *de facto* politicisation of justice. With the political system completely dominated by the ruling party, future councils of notables will be unsurprisingly dominated by CNDD-FDD, and predominantly composed of administrative officials in *collines*, thus blurring the delimitation between the Executive and the Judiciary.[[156]](#footnote-157) If it is true that local courts are plagued by corruption and influence-peddling,[[157]](#footnote-158) no special provision has been made to ensure that such practices are not replicated within the council of notables.

222. Another major reform by President Ndayishimiye is the revision of the Supreme Council of the Judiciary (CSM), with the promulgation on 23 January 2021 of the organic law to review organic Law No.1/13 of 12 June 2019 to lay down the organisation and functioning of the Supreme Council of the Judiciary.[[158]](#footnote-159) This law increases and institutionalises the possibility for the Executive to control the Judiciary. It entrusts CSM, in addition to its traditional missions, the mission to “ensure the proper functioning of all judicial institutions” and manage the careers of judges, the capacity to “enjoin the competent organs to initiate proceedings in case of an offence and to ensure their follow-up; control the quality of judgements, rulings and other court decisions denounced or brought to the attention of the Council as well as their enforcement actions”.[[159]](#footnote-160) Furthermore, according to article 5 of the law, “when no other judicial remedy is available for the claimant, the Supreme Council of the Judiciary may take any remedial action particularly for reasons of obvious social interest if it considers the appeal admissible”.

[…]

225. This law launched a global movement which tends to institutionalise the control of the Judiciary by the Executive. Towards the end of July 2021, the Governor of the province of Bujumbura (rural) announced his intention to control court judgements and their execution. After recalling the existence of the right of appeal in Burundi, the Governor indicated that he did not wish that the possibility of appeal “should constitute a source of injustice thus creating endless trials”. He added: “We are taking advantage of this opportunity to draw the attention of judges who are pronouncing judgements as they please under the pretext of this principle [right of appeal] that administrative measures shall be taken against them”. After citing recurrent operational issues observed in courts, especially in several cases of land disputes, the Governor stated: “In order to respond to complaints received in the cabinet concerning wrongly pronounced judgements and poor execution of sentences, it is recommended that the president of the High Court and the Prosecutor should appear before the Governor`s cabinet once a month for joint deliberations with the Governor`s cabinet”.[[160]](#footnote-161)

226. Around the same period, in response to complaints made by the population regarding the functioning of the judicial system, the Minister of Justice relieved several judges of their duties during field trips and threatened to remove more.[[161]](#footnote-162) She also “warned judges who are sharing messages on social media threatening to organise strikes following the recent decisions of the Minister to dismiss certain judges. She indicated that judges who are hiding behind the independence of the judiciary and who are executing judgements outside the law, will soon be sacked”.[[162]](#footnote-163)

227. In July 2021, the Speaker of the National Assembly, Gélase Ndabirabe, criticized the principle of the independence of the judiciary and recommended that joint security committees handle politically sensitive files.[[163]](#footnote-164)

228. Faced with these excesses, on 29 July 2021, the Minister of the Interior, Community Development and Public Security, Gervais Ndirakobuca, had to call administrative officials to order: “Do not interfere in the judiciary. There are issues making noise in the judicial system. There are letters written by the governors of Bujumbura and Bururi stating that you are implementing my recommendations”. He emphasized that there are no orders from the Minister of the Interior which can replace justice. “We know our limits. What is being dealt with by the justice system should remain in its purview”. According to Minister Ndirakobuca, an administration staff may only guide a citizen who has suffered prejudice. “You should not be a substitute of justice. It is impossible. The country would slide into chaos. Do you understand me? There would be anarchy in the country. The judiciary remains independent”.[[164]](#footnote-165)

**3. Abolition of anti-corruption judicial institutions**

229. Another key reform of the judicial system undertaken by President Ndayishimiye’s Government is very controversial ─ the abolition of institutions specialized in the fight against corruption. On 29 April 2021, the National Assembly adopted a draft organic law tabled by the Minister of Justice aimed at officially suppressing the Special Anti-corruption Court and Brigade, to “bring anti-corruption criminal justice closer to plaintiffs”. The Minister indicated that “specialized institutions require significant material and human resources to operate whereas they produce mixed results. Anti-corruption sections should therefore be implemented within prosecutors’ offices, same as anti-corruption chambers in first-instance courts and courts of appeal. The Minister explained to Members of Parliament that the subject-matter jurisdiction of the anti-corruption chamber at the first-instance court is limited to those responsible for corruption and accomplices in corruption and related offences whose value does not exceed 100 million Burundian francs. Those responsible for corruption in particular shall be judged by their rightful judge, the judge close to them, in this case the anti-corruption chamber of the first-instance court. […] the missions that were entrusted to the Special Anti-corruption Brigade are passed on to a specialized anti-corruption unit established within the judicial police”.[[165]](#footnote-166)

[…]

**5. Lack of progress in the fight against impunity**

[…]

236. No significant progress has been recorded in the fight against impunity since the inauguration of President Ndayishimiye. Beyond factors related to cases of dysfunction in the judicial system, generalised impunity is mainly due to the lack of political will by high-level Burundian authorities. As long as President Ndayishimiye and his Government continue to deny that violations have been committed since 2015 and to reject the principle of dialogue on issues related to human rights in Burundi, it is difficult to see how there could be any progress in the fight against impunity for past and present violations, when this constitutes one of the keys to improving the overall situation of human rights in the country.

237. The first convictions of the 2020 summer were not really followed by others which could have signalled a significant break with the past. However, some police agents and military were convicted for common law crimes, often committed under the influence of alcohol;[[166]](#footnote-167) and some Imbonerakure were arrested for serious violations, though many of them were later released and/or “punished” internally.[[167]](#footnote-168) For those who are still detained, it remains to be seen whether the procedures will result in convictions.

238. Agents of the National Intelligence Service and others ranking as such, known for their involvement in numerous human rights violations, were arrested and detained.[[168]](#footnote-169) However, the opacity of procedures makes it difficult to determine whether that is linked to their past actions, other crimes and offences or has to do with settling scores internally.

F. Economic foundations of the State

[…]

2. Corruption

245. Among the factors that facilitate the petty corruption that plagues the daily lives of Burundians is the creation by the authorities of countless rules and regulations governing the issuance of licenses and permits, business registration, loan application, investments facilitation, car ownership, driving permit, foreign currency purchase, passport request, as well as many other activities that require specific documents or authorizations. Indeed, certain Government officials have a *de facto* monopoly of power to authorize, delay or deny the approval or issuance of documents.[[169]](#footnote-170) The fast issuance of legal documents such as passports, identity cards, real estate titles and other permits is contingent on paying a bride. Many people become intermediaries or facilitators between citizens and these public officials.[[170]](#footnote-171)

For example, a witness who had difficulty registering his marriage explained:

*“I asked for advice and was told that it would be better if I went to the communal office with some money and the next time, I went with 17,000 Fbu [around USD 8.5] which I handed over and then I was registered. Nothing would have been done if I had not paid. In fact, all the services must be paid for. I had the same problem to obtain documents necessary for the motorbike inspection. Actually, there are middlemen who are there to assist you with this, you give them money and they take care of everything. You do not know where the documents came from”*.[[171]](#footnote-172)

246. Recognizing the problem, President Ndayishimiye and his Government, have made the fight against corruption and bad governance a priority. For instance, the Minister of the Interior, Community Development and Public Security denounced the practice of some communal councillors demanding fees, which constitute bribes, for signing documents related to property sale.[[172]](#footnote-173) In this notice, he also criticized the practice of some communal and provincial authorities in applying fees as a contribution to development efforts as a condition for obtaining administrative documents.[[173]](#footnote-174)

247. In this regard, the Commission recalls its findings concerning forced contributions by Imbonerakure and local administrative officials, a persistent and widespread practice that can be primarily considered as extortion and, in some cases, as corruption when administrative authorities are involved.[[174]](#footnote-175)

248. However, to date, the reforms undertaken by the Burundian Government have been rather modest, even questionable, such as the proposed abolition of specialized anti-corruption institutions.[[175]](#footnote-176) Once again, mostly symbolic gestures were made, such as the dismissal on 1 May 2021 of the Minister of Commerce, Transport, Industry and Tourism, whose actions could possibly “jeopardize the country’s economy”.[[176]](#footnote-177) The Minister was suspected of embezzlement and accused of having sold the last plane of Air Burundi without the approval of the authorities, as well as having mismanaged funds allocated to the merger of Air Burundi and SOBUGEA.[[177]](#footnote-178) The new Minister of Commerce, appointed on May 12, 2021 cancelled the sales contract for the said aircraft.[[178]](#footnote-179) Similarly, in the spring of 2021, communal tax collectors and accountants accused of embezzlement were collectively dismissed without thorough investigation or prosecution.[[179]](#footnote-180) The deterrent value of such decisions remains to be proven, and the collective sanctions seem arbitrary.

249. In addition, the Minister of the Interior, Community Development and Public Security banned mandatory parking fees collection by transporters’ associations. The latter had been denounced as abusive since drivers and other employees in the sector could never benefit from financial support from these associations when needed.[[180]](#footnote-181)

[…]

251. The Head of State has sometimes demonstrated an ambiguous position in the fight against corruption, by shifting his position regarding the declaration of assets by public officials; a requirement enshrined in the Constitution ;[[181]](#footnote-182) or by stating that only cases of corruption committed after his inauguration would be investigated, establishing *de facto* impunity for previous acts.[[182]](#footnote-183) According to him, it would be counterproductive to stir up the past: “because if we prosecute those who have plundered public resources in recent years, we will waste time with investigations, we will not be able to work, and the country will become poorer. Today, I say: for those who stole, it is done. We will submit your case before the Truth and Reconciliation Commission […]”.[[183]](#footnote-184)

252. In the summer of 2021, he also declared during a CNDD-FDD prayer session that to better fight corruption while contributing to the development of the country, he would henceforth accept all bribes that were offered to him: “[…] If you are generous, do not hesitate to give me a bribe. I have decided not to refuse a bribe anymore. I will take the money and use it to build schools. Then I do not give him what he wants. It is not complicated. It is the only way to fight corruption. [...] Once you have taken the bribe, you use it to build schools and you tell the person: ‘you will not get what you are looking for’. Let him go and complain that I took money from him! I know how to defeat corruption: you let people do it, but you make sure nothing comes out of it”.

253. With the status quo, and in the absence of a credible structural reform, the Commission considers that it has reasonable grounds to believe that corruption continues to be endemic in Burundi, both the corruption that has an impact on the day-to-day life of the population and grand corruption. For example, police appear to continue setting up barriers in the interior of the country to force drivers to pay them to avoid a fine, including when there is no proven traffic violation, a practice that has reportedly increased since the start of the Covid-19 pandemic.[[184]](#footnote-185)

3. Mining Sector Developments

[…]

a) Suspension of mining licenses

257. Shortly after coming to power, President Ndayishimiye commissioned an audit of the mining sector, presumably in response to accusations by the 2019 National Security Council (CNS) that mining companies were not honouring their commitments and were producing biased reports that concealed the actual production figures.[[185]](#footnote-186) On 8 April 2021, the Government banned the company Rainbow Mining Burundi from exporting rare earth materials that was mined in Gakara. This decision was taken against the backdrop of allegations that the company was misrepresenting the actual rare earth contents and actual selling prices.[[186]](#footnote-187) On 15 April 2021, Prime Minister Alain-Guillaume Bunyoni, denounced the practices of mining companies that “rob the country of its natural wealth” while also accusing them of not abiding by the agreements that bind them to the Government concerning payments to the public treasury.[[187]](#footnote-188)

258. On 1 July 2021, the President announced that mining concession agreements signed illegally or with loopholes would be suspended or terminated so that natural resources would truly contribute to the country's development. Lastly, in mid-July 2021, the Government suspended the activities of all mining companies, accusing them of not having respected the mining conventions, which in any case would not be sufficiently profitable for Burundi. The Government stated that the mining conventions should be renegotiated using a “win-win” formula.[[188]](#footnote-189)

259. The threat of unilateral termination of mining agreements could indeed lead to more beneficial ones for the country. However, negotiations must be conducted in full transparency if they are to have a positive impact on corrupt practices. Otherwise, it is possible that these renegotiations could become an opportunity for new payments to high-ranking authorities. In the interests of all parties concerned, any measures to fight corruption or regulate the activities of mining companies must be carried out in accordance with the rule of law.

260. Indeed, Rainbow Mining Burundi has requested that the mining suspension be lifted, and its CEO, who has made several visits to Burundi for this purpose, has noted that the current suspension is in violation of Burundian legislation and was imposed without proper due process. He also noted that the Government of Burundi has never provided credible, data-based alternative prices for the exported concentrate, nor credible third-party alternative analysis of the grades of the samples it holds for each batch exported to date.[[189]](#footnote-190)

b) Gaps in the tracing and the certification of mineral resources

261. The Commission highlights the lack of progress in implementing due diligence, responsible mining, and procurement practices in line with the Organisation for Economic Co-operation and Development guidelines (OECD),[[190]](#footnote-191) notably through the mineral monitoring and certification scheme of the International Conference on the Great Lakes Region (ICGLR) and the Extractive Industries Transparency Initiative (EITI).[[191]](#footnote-192)

[…]

G. Deterioration of the rule of law

[…]

268. Despite President Ndayishimiye’s stated determination to promote the rule of law, which has seriously deteriorated over the years,[[192]](#footnote-193) the latter continues to be eroded since procedures and laws are event less respected than they were in the past, with several breaches in the principles of legality,[[193]](#footnote-194) accountability of authorities[[194]](#footnote-195) and separation of powers[[195]](#footnote-196).

1) A Burundian State infringing laws

269. Some high-level authorities openly authorised or accepted the violation of the Constitution and laws. For instance, Ministers did not fulfil their constitutional obligation to declare their assets. It should be recalled that on 23 August 2020, after insisting on the obligation for all Ministers to declare their assets within two weeks, in accordance with the 2018 Constitution,[[196]](#footnote-197) President Ndayishimiye shifted his earlier position and indicated during a radio broadcast held on 25 September 2020: “We know what the Constitution mandates us to do it, but we have found it to be impossible. Some would need to spend a week to list their assets. An individual’s wealth is their own secret. We will see at the end of the term if there is anything out of place”.[[197]](#footnote-198) He simply indicated that if some showed “blatant signs of illicit enrichment” at the end of the term, they could be required to go through accountability reporting. According to information obtained by OLUCOME, no assets declaration had been made by members of Government on 1 December 2020.[[198]](#footnote-199) However, on 9 June 2021, during the Council of Ministers, the President indicated that asset declarations could be completed given that the forms were now available,[[199]](#footnote-200) but there is still no confirmation that Ministers completed the forms.

270. The Arusha Peace Agreement had provided for ethnic quotas within main State institutions of the Executive and Legislative (60% of Hutus and 40% of Tutsis) and within defence and security forces (50% of Hutus and 50% of Tutsis). While President Ndayishimiye, like his predecessor, is hammering on the point that ethnic groups do not exist in Burundi and that they were created by colonizers to divide the people of Burundi,[[200]](#footnote-201) the 2018 Constitution adopted these ethnic quotas while including gender quotas (30% of women) and even extended them to judicial institutions, while *de facto* abolishing them for the National Intelligence Service - since it is no longer officially part of the defence and security forces but placed under the direct control of the Head of State. Similarly, Burundian authorities have sought to apply these quotas to foreign non-governmental organisations.[[201]](#footnote-202) However, according to credible estimates, ethnic quotas within the main institutions and defence and security forces are no longer applied except in Parliament, and all the institutions are largely dominated by people from the Hutu ethnic group.[[202]](#footnote-203)

b) A State not respecting legal procedures

271. Authorities have overstepped their competences by making decisions without following legal procedures. For instance, in the name of the fight against corruption, on 9 April 2021, the Minister of the Interior, Community Development and Public Security, Gervais Ndirakobuca, announced the dismissal with immediate effect of 119 communal accounting officers in Burundi for “having crippled the collection of communal revenue in complicity with former tax inspectors previously relieved of their duties”.[[203]](#footnote-204) Similarly, at the end of February 2021, the Minister of the Interior, Community Development and Public Security replaced all tax inspectors in charge of the collection of duties and taxes at Bujumbura (Mairie), shortly after accusing them of systematically embezzling funds, and even mentioning the amount of 121 million Burundian francs per week (USD 62 000).[[204]](#footnote-205)

272. Without considering the merits of these decisions, the Commission notes that their legal basis is questionable, or completely non-existent. They are therefore incompatible with standards on the predictability of law, especially considering the very short deadlines for their execution and the impossibility of appealing against them. Thus, communal accounting officers are recruited through a competitive exam by the communal administrator following the approval of the Council and not appointed by the Minister of the Interior. The latter therefore took this decision in violation of the 2020 law on communal administration,[[205]](#footnote-206) and the labour law, which offers a certain level of protection to communal employees particularly with regard to procedures to be followed for dismissal in case of misconduct.[[206]](#footnote-207)

273. In February 2021, the same Minister decided that traders whose shops were close to public markets had to close within 10 days and move into these markets.[[207]](#footnote-208) On 16 March 2021, he gave two weeks to traders close to the Jabe market, Bwiza area, Mukaza commune and Bujumbura Mairie to move into the market.[[208]](#footnote-209) However, the majority of traders concerned were legally carrying out their activities and paying their taxes to national and local authorities, in accordance with the principle of free trade enshrined in the Constitution of Burundi and with the 2015 Commercial Code.[[209]](#footnote-210) According to OLUCOME, such a decision is contrary to Burundian law in the area of trade and constitutes an abuse of power.[[210]](#footnote-211)

274. Local authorities are also multiplying all types of taxes and contributions often without any legal basis. Such practices have been existing for some time, notably the collection of the so-called voluntary “contributions”, in order to finance public infrastructure (schools, local administrative buildings, stadiums, roads, etc.) and to support the ruling party CNDD-FDD (festive activities or local offices).[[211]](#footnote-212)

[…]

276. On the other hand, decisions taken legally have not been fully executed or implemented, such as the presidential pardon theoretically granted to 5 200 prisoners in March 2021, whose application only began in mid-April. In early July 2021, only 2 600 prisoners who had been pardoned had been effectively released, including some that were re-arrested shortly after their release and others kidnapped or missing.[[212]](#footnote-213) As of 10 August 2021, according to a Burundian NGO, 4 828 prisoners who had been pardoned have been effectively released.[[213]](#footnote-214) Court decisions have not been executed, especially interim release decisions pending trial or release following acquittal.[[214]](#footnote-215) On the contrary, other decisions such as the destruction of buildings considered unregulated, or illegal were executed almost immediately without providing any possibility of appeal or reasonable deadline to the persons concerned.[[215]](#footnote-216)

277. President Ndayishimiye approved all these decisions, directly or implicitly, and therefore the manner in which they were taken without any legal basis, or respect for procedures, or the possibility for persons concerned to appeal. The principle of legality, legal security, prevention of abuse of power, equality before the law and non-discrimination, and access to justice are therefore not guaranteed in Burundi.

[…]

VI. Conclusions and recommendations

**332. After more than a year in power, President Ndayishimiye and his Government have markedly improved relations between Burundi and the international community, but there has been little meaningful change in terms of human rights.** **Symbolic, sometimes sensational, gestures have been made, but these will not serve to advance the fight against impunity and corruption in the long term or to reopen the democratic space.** **Serious human rights violations have continued to be committed by State officials and members of the Imbonerakure at the instigation or with the acquiescence of the authorities.** **While the risk factors have improved, they nonetheless all remain present.**

**333. The Commission therefore makes the following recommendations to the Burundian authorities:**

**a) To implement the Commission’s previous recommendations, in particular those regarding the priority measures to be taken to put an end to human rights violations and international crimes, combat impunity and economic malfeasance, reopen the democratic space, guarantee civil**

**b) To ensure that perpetrators of armed attacks are pursued in conformity with fundamental rights and legal procedures and without discrimination;**

**(c) To guarantee the security, freedom and physical integrity of political opponents and their relatives, journalists, members of civil society, human rights defenders and returnees and ensure that they are not subjected to acts of violence, intimidation, harassment or any form of discrimination, including in the exercise of their fundamental freedoms;**

**(d) To ensure that perpetrators of armed attacks are pursued in conformity with fundamental rights and legal procedures and without discrimination;**

**e) To permanently stop the Imbonerakure from usurping the functions of the security forces and the judiciary and to prosecute and punish, as an example, those involved in violations;**

**f) To establish a national torture prevention mechanism, in line with international standards, whose first task would be to prevent torture by agents of the National Intelligence Service;**

**g) To fully cooperate with international and regional human rights mechanisms, including on sensitive matters, authorize them to conduct independent monitoring activities and, to this end, reopen the OHCHR country office;**

**h) To take measures to effectively combat corruption, in particular by implementing the recommendations of the Implementation Review Group of the United Nations Convention against Corruption;**[[216]](#footnote-217)**, but also by:**

* **Instituting meaningful penalties for corruption cases such as to guarantee administrative, regulatory, financial and economic disincentive.**
* **Enhancing the management of development programmes, especially their monitoring and evaluation, audits, feedback and review by international and independent advisory bodies through measurable objectives to eradicate any possibility of embezzlement;**
* **Maintaining, reforming and improving the efficiency of specialized anti-corruption institutions, particularly the Anti-Corruption Court and the Special Anti-Corruption Brigade;**

**i) To guarantee transparency and good governance in the management of resources derived from mining activities; notably by:**

* **Implementing the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas;**
* **Adopting all necessary measures to immediately comply with the ICGLR Mineral Tracking and Certification Scheme;**
* **Signing up with the Extractive Industries Transparency Initiative (EITI);**
* **Establishing a national public register of members and main shareholders of Burundian companies who are parties to mining contracts;**
* **Guaranteeing that the renegotiation of mining licenses is done in a transparent manner;**

**j) To ensure that the Truth and Reconciliation Commission conducts its work in a professional, inclusive, impartial, objective, transparent, balanced, upstanding, and credible manner so as to make a genuine and lasting contribution to national reconciliation;**

**k) To take urgent steps to restore the rule of law by ensuring that the law is enforced, including within Government and State institutions, and that the separation of powers is respected; by ensuring that ethnic balances are respected in State institutions, in accordance with the Arusha Peace Agreement and the Constitution of Burundi;**

**l) To guarantee the population’s right to life with dignity,**[[217]](#footnote-218) **as well as its economic and social rights, particularly the right to a decent standard of living, inter alia by drawing up and implementing State budgets to the maximum of available resources.**

**334. The Commission recommends to the armed groups that they cease committing human rights violations and acts of violence against State institutions and civilians.**

**335. The Commission makes the following recommendations to the international community:**

**a) To keep following the human rights situation in Burundi, in particular through an independent international mechanism capable of objectively monitoring the human rights situation in the country;**

**b) To ensure that refugees are not forced to return to Burundi under the tripartite voluntary repatriation programme, especially given the deterioration in living conditions, and that returns are voluntary, dignified, and safe;**

**c) To support independent civil society organizations in the field of human rights in Burundi, including those located abroad, in conducting investigations into human rights violations in the country and publishing reports on their findings;**

**336. The Commission makes the following recommendations to the technical and financial partners of Burundi:**

**a) To put in place procedures to minimize and eliminate the risk of economic malfeasance in connection with development assistance projects;**

**b) To prioritize projects designed to reduce risk factors on a lasting basis and to improve transparency and accountability in the management of public finances.**

**337. Finally, the Commission recommends that the Global Alliance for National Human Rights Institutions (GANHRI) ensure that the Independent National Human Rights Commission is able to operate in conformity with the Paris Principles, by helping it to strengthen its independence and capacities.**

1. Data collected and indexed by the Armed Conflict Location & Event Data Project (ACLED): https://acleddata.com/dashboard/#/dashboard. [↑](#footnote-ref-2)
2. <https://twitter.com/MininterInfosBi/status/1391474958887489539?s=20>, <https://twitter.com/MininterInfosBi/status/1392431631361888258?s=20>, <https://twitter.com/MininterInfosBi/status/1383724312490692610?s=20>, https://rtnb.bi/fr/art.php?idapi=4/2/235. [↑](#footnote-ref-3)
3. <https://twitter.com/OmbudsmanBI/status/1397487081706885121?s=20>, <https://twitter.com/CnddFdd/status/1397292156121980934?s=20>, <https://twitter.com/MininterInfosBi/status/1397269693124186125?s=20>, https://twitter.com/MininterInfosBi/status/1409058257252098063?s=20. [↑](#footnote-ref-4)
4. See para. 162-164 and 215-216 for other violations of the right to life. [↑](#footnote-ref-5)
5. See for example: OHCHR, Human Rights, Terrorism and Counterterrorism, Factsheet n°32, available at: https://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf [↑](#footnote-ref-6)
6. TI-374, TI-377, TI-380, TI-382, TI-325, JI-182. [↑](#footnote-ref-7)
7. TI-382. [↑](#footnote-ref-8)
8. TI-372, TI-375, TI-376, TI-362, TI-369, TI-379, HI-082. [↑](#footnote-ref-9)
9. In its previous reports, the Commission had indeed noted that torture of a sexual nature was a common practice in the context of detention at SNR which was known and even encouraged by the institution’s officials, see A/HRC/36/CRP.1, para. 473 to 476 and A/HRC/45/CRP.1 para. 444 to 507. [↑](#footnote-ref-10)
10. TI-372, TI-374, TI-375, TI-376, TI-194, TI-369, TI-379, TI-382, TI-325, JI-182. [↑](#footnote-ref-11)
11. TI-376, JI-180. [↑](#footnote-ref-12)
12. JI-182. [↑](#footnote-ref-13)
13. Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance : “ ‘enforced disappearance’ is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. [↑](#footnote-ref-14)
14. TI-371, TI-374, TI-375, TI-362, TI-369, TI-370, TI-325, HI-082, HI-095. [↑](#footnote-ref-15)
15. Articles 609-615 and 623–626 of the penal Code. [↑](#footnote-ref-16)
16. Articles 616-619 of the Penal Code. [↑](#footnote-ref-17)
17. Article 496 of the Penal Code. [↑](#footnote-ref-18)
18. TI-372, TI-373, TI-375, TI-363, TI-365, TI-367, TI-379, TI-319. [↑](#footnote-ref-19)
19. TI-362. [↑](#footnote-ref-20)
20. TI-360, TI-376, TI-363, TI-319, TI-358, HI-080, HI-081, HI-082, CI-167, CI-176, CI-177. [↑](#footnote-ref-21)
21. See namely A/HRC/42/CRP.2, para. 189-191. [↑](#footnote-ref-22)
22. TI-374, TI-376, TI-377, TI-379, HI-080, HI-081, HI-082, HI-090. [↑](#footnote-ref-23)
23. TI-374. [↑](#footnote-ref-24)
24. Presidential decree n° 100/041 dated 5 March 2021 on Presidential pardon, available: https://www.presidence.gov.bi/2021/03/08/decret-no-100-041-du-05-mars-2021-portant-mesures-de-grace/, [↑](#footnote-ref-25)
25. https://www.presidence.gov.bi/2021/04/26/trois-mille-detenus-affranchis-suite-a-la-grace-presidentielle/. [↑](#footnote-ref-26)
26. TI-380, TI-335, JI-179, HI-081, HI-082, HI-085. [↑](#footnote-ref-27)
27. , HI-081, HI-082, HI-084, HI-090, TI-362. [↑](#footnote-ref-28)
28. See para. 110-113 of this report. [↑](#footnote-ref-29)
29. Presidential decree on Presidential pardon du 23 December 2020: https://www.iwacu-burundi.org/wp-content/uploads/2020/12/decret.jpg. [↑](#footnote-ref-30)
30. For more details on this case, see: A/HRC/45/CRP.1, para. 255-261. [↑](#footnote-ref-31)
31. Decree n° 120 of 23 December 2020 on presidential pardon, See: https://www.presidence.gov.bi/2020/12/24/les-journalistes-diwacu-gracies-par-le-president-de-la-republique/. [↑](#footnote-ref-32)
32. https://www.presidence.gov.bi/2021/01/28/jamais-sans-les-medias-s-e-evariste-ndayishimiye-se-prononce-en-faveur-dune-reconsideration-par-le-cnc-de-certaines-mesures-de-restriction/, https://www.presidence.gov.bi/2021/01/28/communique-final-de-latelier-dechange-entre-le-chef-de-letat-les-responsables-and-les-professionnels-des-medias/. [↑](#footnote-ref-33)
33. https://twitter.com/CNC\_BURUNDI/status/1356158105860648962?s=20, https://www.iwacu-burundi.org/cnc-medias-la-reunion-du-cnc-avec-les-medias-une-simple-prise-de-contact/?utm\_source=dlvr.it&utm\_medium=twitter. [↑](#footnote-ref-34)
34. https://twitter.com/CNC\_BURUNDI/status/1360139493769109511?s=20. [↑](#footnote-ref-35)
35. https://twitter.com/AntoineKaburahe/status/1430889492219457547, https://twitter.com/AntoineKaburahe/status/1387670173725904896. [↑](#footnote-ref-36)
36. See below para. 134-136. [↑](#footnote-ref-37)
37. https://twitter.com/CNC\_BURUNDI/status/1363760439742586885?s=20, https://twitter.com/BurundiNet1/status/1363784564972388352. [↑](#footnote-ref-38)
38. <https://twitter.com/Philippengen/status/1401189629601140739?s=20>. See also: https://www.iwacu-burundi.org/ikiriho-reprend-du-service-pour-bientot/. [↑](#footnote-ref-39)
39. <https://www.voaafrique.com/a/un-site-d-information-proche-du-pouvoir-suspendu-par-la-justice-au-burundi/4612365.html>. [↑](#footnote-ref-40)
40. <https://twitter.com/Ikiriho/status/1405187381385437185?s=20>; https://twitter.com/Ikiriho/status/1405211256802394116?s=20. [↑](#footnote-ref-41)
41. CNC press release of which the Commission obtained a copy. See also: https://www.iwacu-burundi.org/burundi-medias-les-sanctions-contre-la-bbc-and-ikiriho-levees/?utm\_source=dlvr.it&utm\_medium=twitter. [↑](#footnote-ref-42)
42. See A/HRC/42/CRP.2, para. 222. [↑](#footnote-ref-43)
43. https://cpj.org/2021/07/cpj-calls-on-burundi-government-to-let-all-news-outlets-operate-without-conditions/. [↑](#footnote-ref-44)
44. See: https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/burundi-condamnation-in-absentia-a-une-peine-de-prison-a-perpetuite [↑](#footnote-ref-45)
45. See A/HRC/36/CRP.1/, para. 528. [↑](#footnote-ref-46)
46. As a reminder, on 9 May 2016, the Supreme Court sentenced 21 military officers who had been arrested after the attempted coup d’état of 13 May 2015, to life imprisonment and to a fine of more than 6 billion Burundian francs for damage and interests. See: <https://www.la-croix.com/Monde/Afrique/Le-gouvernement-Burundi-poursuit-chasse-opposants-2016-05-10-1200759056>, https://www.rfi.fr/fr/afrique/20160510-burundi-peines-putschistes-prison-coup-etat-cyrille-ndayirukiye-gitega. [↑](#footnote-ref-47)
47. In this report, for information purposes, the amounts expressed in Burundian francs are systematically converted in US dollars using the official exchange rate. [↑](#footnote-ref-48)
48. See https://www.jeuneafrique.com/775690/politique/burundi-la-justice-ordonne-la-saisie-des-biens-dopposants-en-exil/. [↑](#footnote-ref-49)
49. <https://www.dw.com/fr/burundi-les-biens-de-certains-opposants-vendus-aux-ench%C3%A8res/a-55557825>, https://www.jeuneafrique.com/1073755/societe/chronique-burundi-apres-le-putsch-manque-de-2015-la-justice-aux-encheres/. [↑](#footnote-ref-50)
50. Facebook message dated 2 May 2021. [↑](#footnote-ref-51)
51. <https://twitter.com/NtihaboseO/status/1397287186572193793?s=20>, <https://twitter.com/NzomubonaBlaise/status/1397423570935074820?s=20>, <https://twitter.com/NduwimanaClest4/status/1397252961068331021?s=20>, <https://twitter.com/diegirimana/status/1397407571326164992>, <https://twitter.com/habona_mariya/status/1397272630793838596>. On 22 August 2021, during the closing ceremony of the diaspora week, President Ndayishimiye strongly criticised a Burundian journalist in exile who reported that the COVID-19 situation in Burundi was more serious than indicated by Burundian authorities. The President’s statement can, to a certain extent, be considered as threats against the journalist. The Commission has a copy of the video of this statement. [↑](#footnote-ref-52)
52. TI-371, TI-367, TI-378, TI-344. [↑](#footnote-ref-53)
53. https://www.iwacu-burundi.org/securite-retour-de-rutegama/. [↑](#footnote-ref-54)
54. TI-378. [↑](#footnote-ref-55)
55. See para. 215-216 of the present document. [↑](#footnote-ref-56)
56. <https://rtnb.bi/fr/art.php?idapi=5/1/172>, <https://rtnb.bi/fr/art.php?idapi=5/1/135>. See also the propaganda video produced by Willy Nyamitwe, President Ndayishimiye’s communications advisor. https://www.presidence.gov.bi/2021/06/18/evariste-ndayishimiye-un-an-de-dur-labeur-nouvel-elan-dans-la-vision-du-developpement-du-burundi/. [↑](#footnote-ref-57)
57. https://twitter.com/RTNBurundi/status/1409492806557646848?s=20. [↑](#footnote-ref-58)
58. https://www.iwacu-burundi.org/parcem-de-nouveau-operationnelle/. [↑](#footnote-ref-59)
59. See A/HRC/42/CRP.2, para. 243. [↑](#footnote-ref-60)
60. https://www.iwacu-burundi.org/parcem-propose-des-prealables-pour-le-redressement-and-la-relance-economique-du-burundi-2/. [↑](#footnote-ref-61)
61. https://www.acatfrance.fr/bonne-nouvelle/liberation-du-defenseur-des-droits-humains-nestor-nibitanga-. [↑](#footnote-ref-62)
62. See A/HRC/39/CRP.1, para. 332-333- [↑](#footnote-ref-63)
63. See A/HRC/39/CRP.1, para. 326-328 and A/HRC/42/CRP.2, para. 137-138. [↑](#footnote-ref-64)
64. https://afrique.lalibre.be/61798/burundi-peine-reduite-de-32-ans-a-un-an-de-prison-pour-un-militant-des-droits-de-lhomme/. [↑](#footnote-ref-65)
65. <https://twitter.com/BHRI_IDHB/status/1410193885331083268?s=20>, <https://twitter.com/BHRI_IDHB/status/1410191721430929408?s=20>, <https://twitter.com/LewisMudge/status/1409922952078954498?s=20>, <https://twitter.com/LewisMudge/status/1409922957686853633?s=20>, `<https://twitter.com/MaryLawlorhrds/status/1409887957625053198?s=20>, https://twitter.com/ProtectionInt/status/1410172376491364357?s=20. [↑](#footnote-ref-66)
66. https://twitter.com/CNIDH\_Bdi/status/1410142208146214913?s=20. [↑](#footnote-ref-67)
67. https://twitter.com/ClaudeBochuEU/status/1410154458307305472?s=20. [↑](#footnote-ref-68)
68. On 22 October 2020, the Council of Ministers adopted a draft ministerial ordinance on the harmonisation of salaries and operating costs of managers and staff working in projects funded by technical and financial partners (TFP) presented by the Minister of Finance, Budget and Economic Planning: https://www.presidence.gov.bi/2020/10/25/communique-du-conseil-des-ministres-du-22-octobre-2020/. [↑](#footnote-ref-69)
69. https://www.presidence.gov.bi/2020/10/25/communique-du-conseil-des-ministres-du-22-octobre-2020/. [↑](#footnote-ref-70)
70. <https://www.presidence.gov.bi/2020/11/26/le-communique-du-conseil-des-ministres-du-25-novembre-2020/>. [↑](#footnote-ref-71)
71. COI has a copy of the letter. [↑](#footnote-ref-72)
72. COI has a copy of the letter. [↑](#footnote-ref-73)
73. APRODH, established in 2001 by Pierre-Claver Mbonimpa, was suspended by the Government as part of the repression against human rights organisations in November 2015 and deregistered in October 2016. [↑](#footnote-ref-74)
74. https://www.amnesty.org/download/Documents/AFR1645852021FRENCH.pdf. [↑](#footnote-ref-75)
75. https://twitter.com/nshingamateka/status/1412722117259431938?s=20. [↑](#footnote-ref-76)
76. https://twitter.com/NtareHouse/status/1396941363548147712?s=20. [↑](#footnote-ref-77)
77. See para. 134-136 of this document. [↑](#footnote-ref-78)
78. See: https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/burundi-condamnation-in-absentia-a-une-peine-de-prison-a-perpetuite [↑](#footnote-ref-79)
79. See https://www.jeuneafrique.com/775690/politique/burundi-la-justice-ordonne-la-saisie-des-biens-dopposants-en-exil/. [↑](#footnote-ref-80)
80. <https://www.dw.com/fr/burundi-les-biens-de-certains-opposants-vendus-aux-ench%C3%A8res/a-55557825>, https://www.jeuneafrique.com/1073755/societe/chronique-burundi-apres-le-putsch-manque-de-2015-la-justice-aux-encheres/. [↑](#footnote-ref-81)
81. A/HRC/45/CRP.1, para. 198-199. [↑](#footnote-ref-82)
82. TI-328, CI-168. [↑](#footnote-ref-83)
83. TI-328, CI-168. [↑](#footnote-ref-84)
84. See: https://assemblee.bi/spip.php?article2200. [↑](#footnote-ref-85)
85. HI-081, HI-083, JI-173. [↑](#footnote-ref-86)
86. HI-082, HI-085, HI-093, HI-094, TI-361, JI-173, JI-176, JI-178. [↑](#footnote-ref-87)
87. HI-094. [↑](#footnote-ref-88)
88. HI-093. [↑](#footnote-ref-89)
89. TI-361, TI-377, TI-364, TI-369, TI-380, TI-381, TI-329, JI-178. [↑](#footnote-ref-90)
90. JI-173, JI-180. The Commission has a video of a similar march organised in July 2021. [↑](#footnote-ref-91)
91. TI-380. [↑](#footnote-ref-92)
92. TI-361, TI-364, TI-369, TI-380, HI-093, JI-178. [↑](#footnote-ref-93)
93. TI-361. [↑](#footnote-ref-94)
94. TI-369. [↑](#footnote-ref-95)
95. TI-364, TI-369, TI-329. [↑](#footnote-ref-96)
96. JI-184, TI-372, TI-366, TI-381, TI-383. [↑](#footnote-ref-97)
97. TI-364, TI-380, TI-347, HI-093, CI-184. See also: https://www.iwacu-burundi.org/elie-ngomirakiza-reste-introuvable/. [↑](#footnote-ref-98)
98. https://www.rfi.fr/fr/podcasts/invit%C3%A9-afrique/20210714-evariste-ndayishimiye-il-est-temps-de-revoir-les-sanctions-europ%C3%A9ennes-contre-le-burundi. [↑](#footnote-ref-99)
99. See a copy of his statement in annex V. [↑](#footnote-ref-100)
100. “There is a language that Burundi's political scene should be rid of: what is a political party that does not speak the same language with the Government? If you do not use the same language with an elected Government, which other Governments are you identifying with?”, https://www.presidence.gov.bi/2020/06/19/discours-de-son-excellence-general-major-evariste-ndayishimiye-a-loccasion-de-son-investiture/. [↑](#footnote-ref-101)
101. https://www.presidence.gov.bi/2021/06/08/discours-prononce-par-son-excellence-evariste-ndayishimiye-a-loccasion-de-la-levee-de-deuil-definitif-de-feu-pierre-nkurunziza-and-de-la-celebration-de-la-journee-nationale-du-patriotisme/. [↑](#footnote-ref-102)
102. Original message in Kirundi: “[…] Aho hambere amatora yaraba imigambwe na yo igaca iryana; abanywanyi bayo bakaguma binubana, aho twovuze ko imigambwe itavuga rumwe hagati yayo, twavuga ahubwo ko hari imigambwe ivuga rumwe na Reta n’iyindi ijejwe kugwanya Reta. 3/n … Aho hose kwari ukwibagira ko kugwanya Reta ari ukugwanya igihugu, ariko ababivuga bobo babona ko ari bwo bugabo. Ikindi twabonye kituraba twese ni uko abenshi twirengagiza ivyo dutegerezwa gukorera igihugu haba mu kwubaha abandi, gukomeza umutekano no guteza imbere igihugu. 4/n”, informally translated into English by the Commission. <https://twitter.com/GeneralNeva/status/1346861129780359169?s=20> and https://twitter.com/GeneralNeva/status/1346861797488402432?s=20. [↑](#footnote-ref-103)
103. Original message in Kirundi: “Ikindi ntegera ni uko umugambwe udatsinze utaba upfuye kuko aha mwebwe muri abahanuzi kuko muzi vyinshi muri poritike. Igikuru ni uko abari mu ntwaro y’igihugu boza barabumviriza. Ntimwitwe abatavuga rumwe na Reta ahubwo abakebura Reta kugira dukore ivyipfuzo vy’abenegihugu 13/…”, informally translated into English by the Commission. https://twitter.com/GeneralNeva/status/1346864174727536640?s=20. [↑](#footnote-ref-104)
104. https://twitter.com/RTNBurundi/status/1428661484222095362?s=20. [↑](#footnote-ref-105)
105. https://assemblee.bi/spip.php?article2351. [↑](#footnote-ref-106)
106. Transcription of exchanges – verified by the Commission - available on: https://twitter.com/iburundi/status/1398749696701698049?s=20. [↑](#footnote-ref-107)
107. The next local elections will hold in 2025 and the next presidential elections in 2027. [↑](#footnote-ref-108)
108. JI-184, CI-164, CI-175, TI-361. [↑](#footnote-ref-109)
109. HI-090. [↑](#footnote-ref-110)
110. See para. 114-121 of this document. [↑](#footnote-ref-111)
111. LM-015, CI-175, CI-180, JI-172, JI-174. [↑](#footnote-ref-112)
112. JI-172. [↑](#footnote-ref-113)
113. <https://data2.unhcr.org/en/documents/details/84929#_ga=2.93908701.1103644651.1614011228-43481261.1613139231>, p. 15. [↑](#footnote-ref-114)
114. Closing statement at the Plenary Assembly of Catholic Bishops of Burundi in June 2021, available on: https://www.eglisecatholique.bi/index.php/fr/vie-de-l-eglise1/communiques/communique-de-cloture-de-l-assemblee-pleniere-de-la-conference-des-eveques-catholiques-du-burundi-du-mois-de-juin-2021. [↑](#footnote-ref-115)
115. JI-172, JI-185, TI-337. [↑](#footnote-ref-116)
116. JI-185. [↑](#footnote-ref-117)
117. TI-333, TI-356 [↑](#footnote-ref-118)
118. TI-336, TI-339, TI-340. [↑](#footnote-ref-119)
119. TI-356. [↑](#footnote-ref-120)
120. TI-333. [↑](#footnote-ref-121)
121. See A/HRC/42/CRP.2, para. 317-320, A/HRC/45/CRP.1, para. 288-293. [↑](#footnote-ref-122)
122. TI-361, TI-364, TI-365, JI-173, HI-077, HI-081, HI-082, HI-084, HI-092. [↑](#footnote-ref-123)
123. Idem. [↑](#footnote-ref-124)
124. TI-361. [↑](#footnote-ref-125)
125. HI-082, HI-092, TI-364, [↑](#footnote-ref-126)
126. TI-315, TI-316. [↑](#footnote-ref-127)
127. See document in Annex V. [↑](#footnote-ref-128)
128. <https://rtnb.bi/fr/art.php?idapi=5/2/58>. TI-364. [↑](#footnote-ref-129)
129. https://www.iwacu-burundi.org/interview-exclusive-consolateur-nitunga-1650-menages-deplaces-par-le-lac-tanganyika/. [↑](#footnote-ref-130)
130. https://www.iwacu-burundi.org/interview-avec-le-gouverneur-de-muyinga-jean-claude-barutwanayo-je-vais-faire-de-muyinga-le-dubai-burundais/ [↑](#footnote-ref-131)
131. https://twitter.com/RTNBurundi/status/1429062937545687043?s=20. [↑](#footnote-ref-132)
132. JI-184, CI-164, CI-175. [↑](#footnote-ref-133)
133. TI-364, TI-378, HI-090. [↑](#footnote-ref-134)
134. See document in Annex V. [↑](#footnote-ref-135)
135. TI-378, TI-364. [↑](#footnote-ref-136)
136. TI-316,TI-328, TI-338. [↑](#footnote-ref-137)
137. JI-184, LM-018, HI-082. [↑](#footnote-ref-138)
138. TI-364. [↑](#footnote-ref-139)
139. TI-364, TI-378, TI-352, JI-175. [↑](#footnote-ref-140)
140. <https://ligueiteka.bi/wp>content/uploads/2021/06/Lettre\_au\_President\_Evariste\_Ndayishimiye\_du\_18\_juin\_2021.pdf. [↑](#footnote-ref-141)
141. See detailed study by the Commission on the dysfunction in the judicial system: A/HRC/39.CRP.1, para. 462-579. [↑](#footnote-ref-142)
142. JI-178, JI-180, CI-147, CI-149, CI-151, CI-152, CI-181, TI-361, TI-364, TI-368, TI-380, TI-381, TI-383, HI-090. [↑](#footnote-ref-143)
143. https://www.presidence.gov.bi/2020/10/02/le-president-ndayishimiye-ouvre-lannee-judiciaire-2020-2021/. [↑](#footnote-ref-144)
144. https://rtnb.bi/fr/art.php?idapi=5/2/33. [↑](#footnote-ref-145)
145. https://www.presidence.gov.bi/2021/08/24/le-chef-de-letat-anime-une-seance-de-moralisation-a-lendroit-du-corps-de-la-justice/. [↑](#footnote-ref-146)
146. <https://www.rfi.fr/fr/afrique/20210825-burundi-le-pr%C3%A9sident-evariste-ndayishimiye-s-en-prend-aux-juges-de-son-pays>; which contains an extract of the recording of the President's speech. Also see: https://www.presidence.gov.bi/2021/08/30/le-chef-de-letat-appelle-la-population-a-denoncer-les-proces-inequitables/. [↑](#footnote-ref-147)
147. See Annexe III. [↑](#footnote-ref-148)
148. https://rtnb.bi/fr/art.php?idapi=5/1/237. [↑](#footnote-ref-149)
149. <http://provincegitega.gov.bi/index.php/81-actualites/941-la-ministre-de-la-justice-manifeste-sa-delicatesse-aux-prisonnieres-victimes-de-l-incendie-survenu-dans-la-prison-centrale-de-gitega>, also see: https://www.iwacu-burundi.org/incendie-a-la-prison-de-gitega-le-ministre-de-la-justice-au-secours-des-sinistres/. [↑](#footnote-ref-150)
150. See para. 267-277 of this document. [↑](#footnote-ref-151)
151. Law No. 1/03 of 23 January 2021 to supplement the provisions of the Code of Civil Procedure relating to the re-institution of the council of notables in each *colline*, see: https://www.presidence.gov.bi/2021/02/02/loi-no-1-03-du-23-janvier-2021-portant-complement-des-dispositions-du-code-de-procedure-civile-relative-a-la-reinstitution-du-conseil-des-notables-de-la-colline/. [↑](#footnote-ref-152)
152. Article 5 of Law No. 1/03 of 23 January 2021. [↑](#footnote-ref-153)
153. Article 6 of Law No. 1/03 of 23 January 2021. [↑](#footnote-ref-154)
154. Article 13 of Law No. 1/03 of 23 January 2021. [↑](#footnote-ref-155)
155. Articles 14, 25 and 16 of Law No. 1/03 of 23 January 2021. [↑](#footnote-ref-156)
156. There is no legal provision to prevent holders of other elective or professional offices from standing for and being elected as members of the council of notables in *collines*. [↑](#footnote-ref-157)
157. See A/HRC/39/CRP.1, para. 508-510. [↑](#footnote-ref-158)
158. Law No. 1/02 of 23 January 2021 to amend organic law No. 1/13 of 12 June 2019 to lay down the organisation and functioning of the Judicial Service Commission, see https://www.assemblee.bi/IMG/pdf/N%C2%B02\_du\_23\_janvier\_2021.pdf [↑](#footnote-ref-159)
159. Articles 3 (7) and (8) of law No. 1/02 of 23 January 2021. [↑](#footnote-ref-160)
160. See document in Annex V. [↑](#footnote-ref-161)
161. <https://rtnb.bi/fr/art.php?idapi=5/1/244>, <https://rtnb.bi/fr/art.php?idapi=5/1/238>, <https://rtnb.bi/fr/art.php?idapi=5/1/237>, [↑](#footnote-ref-162)
162. https://rtnb.bi/fr/art.php?idapi=5/1/244. [↑](#footnote-ref-163)
163. https://www.iwacu-burundi.org/le-judiciaire-ecrase-sous-le-poids-de-lexecutif/. [↑](#footnote-ref-164)
164. https://www.iwacu-burundi.org/le-judiciaire-ecrase-sous-le-poids-de-lexecutif/. [↑](#footnote-ref-165)
165. https://www.assemblee.bi/spip.php?article2334. [↑](#footnote-ref-166)
166. <https://www.sosmediasburundi.org/2021/05/18/cibitoke-un-policier-condamne-a-perpetuite/>, <https://www.yaga-burundi.com/2021/militaire-bistrot-vilain-couple/>, <https://www.sosmediasburundi.org/2021/04/14/bubanza-un-cabaretier-tue-a-bout-portant-par-un-militaire/>, <https://www.sosmediasburundi.org/2021/04/08/muyinga-prison-a-vie-pour-un-militaire-qui-a-tue-un-chef-de-quartier/>, [Bujumbura : prison to vie pour un colonel qui a tué un caissier d’un bar - SOS Médias Burundi (sosmediasburundi.org)](https://www.sosmediasburundi.org/2021/04/05/bujumbura-prison-a-vie-pour-un-colonel-qui-a-tue-un-caissier-dun-bar/). [↑](#footnote-ref-167)
167. JI-173, JI-184, TI-364. [↑](#footnote-ref-168)
168. TI-371, TI-372, TI-364, CI-184. [↑](#footnote-ref-169)
169. Vito Tanzi May, Corruption around the world: Causes, consequences, scope and cures. 1998. IMF Working paper, p. 8. [↑](#footnote-ref-170)
170. CI-159, CI-188, CI-189, JI-185, TI-197, TI-365. [↑](#footnote-ref-171)
171. JI- 185. [↑](#footnote-ref-172)
172. <https://twitter.com/MininterInfosBi/status/1389952035269795842?s=20>; See his letter dated 6 July 2021 addressed to the Governor of Bujumbura province and the Mayor of Bujumbura, with a copy to the President of the Republic, in Annex V. [↑](#footnote-ref-173)
173. Idem. [↑](#footnote-ref-174)
174. See in particular A/HRC/42/CRP.2, par. 317-320, A/HRC/45/CRP.1, par. 288-293, as well as par. 207-211 of the present document. [↑](#footnote-ref-175)
175. See par. 229-232 of the present document. [↑](#footnote-ref-176)
176. Decree n° 100/140 of 1 May 2021, available at: https://www.presidence.gov.bi/2021/05/01/decret-no-100-140-du-01-mai-2021-portant-destitution-du-ministre-du-commerce-du-transport-de-lindustrie-et-du-tourisme/. [↑](#footnote-ref-177)
177. <https://www.rfi.fr/fr/afrique/20210502-burundi-la-ministre-du-commerce-et-du-transport-limog%C3%A9e-par-evariste-ndayishimiye>; <https://africa24tv.com/burundi-limogeage-du-ministre-du-commerce-immaculee-ndabaneze/>; <https://twitter.com/olucome_burundi/status/1388571197240188931?s=20>; [↑](#footnote-ref-178)
178. https://twitter.com/olucome\_burundi/status/1406518430799482882?s=20. [↑](#footnote-ref-179)
179. <https://twitter.com/MininterInfosBi/status/1380539706421706752?s=20>. [↑](#footnote-ref-180)
180. https://twitter.com/MininterInfosBi/status/1372988832082186244?s=20. [↑](#footnote-ref-181)
181. See par. 269 of the present document. [↑](#footnote-ref-182)
182. <https://www.rfi.fr/fr/afrique/20210323-burundi-pol%C3%A9mique-autour-des-d%C3%A9clarations-du-pr%C3%A9sident-ndayishimiye-sur-la-lutte-anti-corruption?ref=tw_i>. [↑](#footnote-ref-183)
183. https://www.rfi.fr/fr/afrique/20210323-burundi-pol%C3%A9mique-autour-des-d%C3%A9clarations-du-pr%C3%A9sident-ndayishimiye-sur-la-lutte-anti-corruption. [↑](#footnote-ref-184)
184. HI-081. [↑](#footnote-ref-185)
185. See A/HRC/45/CRP.1, par. 687. [↑](#footnote-ref-186)
186. https://www.africaintelligence.fr/industrie-miniere\_exploration-production/2021/08/19/terres-rares--adonis-pouroulis-freine-par-un-expert-dans-sa-course-avec-pekin,109685703-gra. [↑](#footnote-ref-187)
187. https://www.assemblee.bi/spip.php?article2326. [↑](#footnote-ref-188)
188. <https://rtnb.bi/fr/art.php?idapi=5/2/25>. [↑](#footnote-ref-189)
189. https://www.londonstockexchange.com/news-article/RBW/market-update/15087383. [↑](#footnote-ref-190)
190. « Due diligence is an ongoing, proactive and reactive process by which companies can ensure that they respect human rights and do not contribute to conflict.2 Due diligence can also help companies ensure that '' they respect international law and comply with national laws, including those governing the illegal trade in minerals and United Nations sanctions. Risk-based due diligence refers to the steps companies need to take to identify and address actual or potential risks in order to prevent or mitigate negative impacts associated with their business or procurement decisions » (OECD) , OECD Due Diligence Guidelines for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, 2016, Third Edition, OECD Publishing, Paris.

     <http://dx.doi.org/10.1787/9789264252479-en>, p. 13. [↑](#footnote-ref-191)
191. The EITI focuses on collecting and collating data on the magnitude, scope and taxation of the extractive sector, while the ITSCI is a mineral due diligence and traceability system that enables Burundi to demonstrate that its production of 3T is not linked to the conflict in the Great Lakes region and thus to have access to international mineral markets. ITSCI involves a multi-step mineral tagging and data collection process which, in this study, serves as the basis for calculating the revenue generated by the sector. Source: International Bank for Reconstruction and Development / World Bank, The Republic of Burundi, Final Report Transparency in income from artisanal and small-scale mining of tin, tantalum, tungsten and gold in Burundi, 2016. [↑](#footnote-ref-192)
192. See index on the rule of law and security prepared by the Mo Ibrahim Foundation, para. 100-101 of this document. [↑](#footnote-ref-193)
193. The activities of the State should be based on the law. This means that government and the administration should act in conformity with the law. At the level of criminal law, the law should clearly forbid bad conduct so that such conduct can be repressed or punished. [↑](#footnote-ref-194)
194. The duties of various authorities are defined by binding rules and those in power should account for all irresponsible behaviour. [↑](#footnote-ref-195)
195. According to which the power to enact laws falls within the competence of the legislative power and the power to determine whether or not these laws are respected and determine sanctions in case of violation of laws is attributed to the sole judicial system. [↑](#footnote-ref-196)
196. https://www.presidence.gov.bi/2020/08/24/les-membres-du-gouvernement-appeles-a-declarer-leurs-richesses/. [↑](#footnote-ref-197)
197. https://www.iwacu-burundi.org/emission-publique-du-chef-de-letat-la-population-est-restee-sur-sa-soif/. [↑](#footnote-ref-198)
198. http://olucome.bi/IMG/pdf/-179.pdf. [↑](#footnote-ref-199)
199. https://www.presidence.gov.bi/2021/06/10/le-communique-du-conseil-des-ministres-du-09-juin-2021/ [↑](#footnote-ref-200)
200. <https://www.presidence.gov.bi/2021/07/01/message-de-se-le-president-ndayishimiye-a-loccasion-de-la-celebration-du-59eme-anniversaire-de-lindependance-du-burundi/>, [↑](#footnote-ref-201)
201. See A/HRC/42/CRP.2, para. 244-249. [↑](#footnote-ref-202)
202. Estimated figures indicate that there is an overall average of close to 77% Hutus within all governing bodies combined (including economic and social spheres). As for the services of the presidency, vice-presidency and prime minister's office, 75% of advisers, chiefs of cabinet and protocol are Hutus - The proportion is 60% of Hutus within the Government, 71% among assistants and permanent secretaries in ministries, 78% among Ambassadors, 75% of Bureau members and chairpersons of National Assembly committees, 62.5% at the Senate; 69% of the most senior officers in the Army, 70% of the most senior officers in the police force; 85% of the most senior officers of the National Intelligence Service; 88% of governors and almost 95% of Public Prosecutors. See Ligue Iteka, Political and ethnic situation of positions of responsibility within the Presidency of the Republic, ministries and parastatals in Burundi, 2021, 26 March 2021, available on: https://ligue-iteka.bi/wp-content/uploads/2021/03/Situation-po-ethnique-26-mars-2021.pdf. [↑](#footnote-ref-203)
203. <https://twitter.com/MininterInfosBi/status/1380539706421706752?s=20>, also see https://www.iwacu-burundi.org/destitution-des-comptables-communaux-une-mesure-decriee/. [↑](#footnote-ref-204)
204. https://twitter.com/MininterInfosBi/status/1361267306886791170?s=20, also see https://www.iwacu-burundi.org/percepteurs-de-taxes-and-impots-les-anciens-remercies-pour-corruption/. [↑](#footnote-ref-205)
205. Article 8 of the law on the administration of communes provides that “the commune is in charge of the administrative management of paid employees. The commune has a legal personality and administrative autonomy”. [↑](#footnote-ref-206)
206. See https://www.iwacu-burundi.org/percepteurs-de-taxes-and-impots-les-anciens-remercies-pour-corruption/. [↑](#footnote-ref-207)
207. https://twitter.com/MininterInfosBi/status/1362394511696138242?s=20. [↑](#footnote-ref-208)
208. https://twitter.com/MininterInfosBi/status/1371884069068414979?s=20. [↑](#footnote-ref-209)
209. https://www.iwacu-burundi.org/olucome-les-commercants-exercant-autour-des-marches-persecutes/?utm\_source=dlvr.it&utm\_medium=twitter. [↑](#footnote-ref-210)
210. https://twitter.com/olucome\_burundi/status/1362132420150104064?s=20. [↑](#footnote-ref-211)
211. See para. 207-211 of this document. [↑](#footnote-ref-212)
212. TI-380, TI-335, JI-179, HI-081, HI-082, HI-085. [↑](#footnote-ref-213)
213. https://www.iwacu-burundi.org/grace-presidentielle-quel-bilan/. [↑](#footnote-ref-214)
214. CI-147, CI-149, CI-151, CI-152, JI-179, TI-382. [↑](#footnote-ref-215)
215. https://twitter.com/MininterInfosBi/status/1371884069068414979?s=20 , https://twitter.com/MininterInfosBi/status/1413433708758044672?s=20, https://twitter.com/MininterInfosBi/status/1416021151940288517?s=20, https://twitter.com/MininterInfosBi/status/1420702924154544131?s=20 , Voir <https://twitter.com/MininterInfosBi/status/1428048002141278208?s=20>. [↑](#footnote-ref-216)
216. CAC/COSP/IRG/2019/CRP.17. [↑](#footnote-ref-217)
217. Human Rights Committee, general comment No. 36 (2018), para. 26. [↑](#footnote-ref-218)