TRANSPARENCY INTERNATIONAL RWANDA

REPORT ON THE ASSESSMENT OF COURT JUDGMENTS RELATED TO CORRUPTION AND RELATED OFFENSES

The title of the Project: Promoting rule of law in Rwanda through sound enforcement of anti-corruption laws

Ministry of Foreign Affairs

REPORT ON THE ASSESSMENT OF COURT JUDGMENTS RELATED TO CORRUPTION AND RELATED OFFENSES

The title of the Project: Promoting rule of law in Rwanda through sound enforcement of anti-corruption laws

CONTENTS

LIST OF TABLES

LIST OF FIGURES

LIST OF ACRONYMS

AU : African Union
CS : *Cour Suprême*
HC : High Court
HYE : Huye
IC : Intermediate Court
KIG : Kigali
MUS : Musanze
NYA : Nyagatare
NYBE : Nyamagabe
NYG : Nyarugenge
O.G : Official Gazette
OL : Organic Law
PC : Penal Code
RBV : Rubavu
RDP : *Rôle Détention Provisoire*
RDPA : *Rôle Détention Provisoire en Appel*
RP : *Rôle Pénal*
RPA : *Rôle Pénal Appel*
RPAA : *Rôle Pénal 2e Appel*
RSZ : Rusizi
RWG : Rwamagana
TGI : *Tribunal de Grande Instance*
UNCAC : United Nations Convention against Corruption

EXECUTIVE SUMMARY

Rwanda is praised for its zero tolerance to corruption. International indexes, prominently the Transparency International Corruption Perception Index (CPI) have ranked Rwanda as the least corrupt in East Africa. This is due to high political commitment, establishment of institutions to fight corruption as well as relatively developed legal and policy framework which provide enabling environment to fight corruption in Rwanda.

Despite this good regional positioning in the fight of corruption, the judiciary has been reported as being among institutions in which corruption is perceived to be high in Rwanda. It is in this respect that Transparency International Rwanda (TIR) sought to conduct a situational analysis of the usable laws related to the prevention and fight against corruption in Rwanda with the aims to identify the gaps that can impede their implementation and, to find out the deficiencies in their implementation through the analysis of the corruption cases that have been handled by courts.

To this effect and thanks to funds provided by the Embassy of the Kingdom of the Netherlands in Rwanda, TIR initiated a one year project entitled "Promoting rule of law in Rwanda through sound enforcement of anti-corruption laws" and hired four (4) legal consultants to carry out the assessment of court judgments.

To grasp the real situation of judgments of corruption and related offenses, consultants sampled 200 cases from Intermediate Courts, High Court and its chambers and the Supreme Court. Two objective criteria were applied in order to conduct an effective selection of cases.

The geographical criterion was first taken into consideration in selecting cases in order to have the coverage of all the provinces of the Republic of Rwanda i.e the City of Kigali (cases from the Supreme Court, the High Court, Nyarugenge Intermediate Court and Gasabo Intermediate Court); Eastern Province (cases from Rwamagana High Court, Ngoma Intermediate Court and Nyagatare Intermediate Court); Northern Province (cases from Musanze High Court, Gicumbi Intermediate Court Musanze Intermediate Court); Western Province (cases from Rusizi High Court, Rusizi Intermediate Court and Rubavu Intermediate Court) and Southern Province

(cases from Nyanza High Court, Huye Intermediate Court, Muhanga Intermediate Court).

Secondly, the quality of judgments to select was reflected on. Therefore, the selection had to be made on a variety of criteria that would help to cover all the aspects of judgments so as to have a complete view on how judges on the way judges apply laws in adjudicating cases of corruption and other related offences. Thus, criteria such as cases on merit as opposed to cases of pretrial detention (where possible); the gender of accused; having both cases of corruption and cases of offenses related to corruption; different categories of corruption; various types of decision taken by judges; various circumstances that motivated the decisions of the judges were taken into consideration.

A case map consisting in to creating a spreadsheet and mapping major conclusions reached by the tribunals and courts when discussing whether each suspect should or not be held responsible for the crimes alleged was established.

Apart from making the selection of cases using the case map spreadsheet, consultants made a desk review of the laws on corruption and related offenses. In this regard, the legal framework of Anti-corruption in Rwanda was presented in exploring both the domestic legal mechanisms and the international mechanisms contained in regional and universal legal texts ratified by Rwanda and the compliance thereof. The review of literature available on corruption and related offences was also conducted.

The gist of this research was presented in the assessment of selected cases. The assessment was based on various criteria with the special focus on principles provided by the law. Issues pertaining to pretrial phase especially how judges appreciate serious ground for a suspect to be held in prison before the final judgment was critically analyzed. Furthermore, aspects during the trial phase such as issues of qualification, assessment of moral and material elements, the application of mitigating circumstances, aggravating circumstances, suspension of penalties and, in a broader sense, the way judges deal with the issue of punishments were also examined.

From the analysis of court judgments, it was found that there are the problems of the fragmentation of laws dealing with corruption and related offenses, inadequate qualification of the offence of corruption by the prosecution, disparities of penalties for similar cases by judges, misuse of the discretionary power to accept or reject

mitigating or aggravating circumstances by judges, the lack of reference to precedent, especially of the Supreme Court, contradiction in affidavits containing testimonies of witnesses, the criminalization of embezzlement as an offense not related to corruption and the lack of judicial decisions on the fate of the seized property.

Some of the recommendations formulated to address these findings are the enactment of single act on corruption and related offenses by the Government of Rwanda which is in harmony with the international and regional conventions on corruption, to put in place sentencing guidelines that would precise factors relevant in determining the sentence; the application of mitigating and aggravating circumstances in the same for similar cases to avoid having contradictory judgments; the insurance of the accuracy of affidavits which are submitted to courts and the consideration of the case law of the Supreme Court by lower courts.

INTRODUCTION

Rwanda has a track record in zero tolerance to corruption. International indexes, prominently the Transparency International Corruption Perception Index (CPI), score Rwanda as relatively less corrupt, especially in the East African comparison. However, the Rwanda Bribery Index (RBI) 2016 has identified the Judiciary as one of the most prone institutions to corrupt behavior. Nevertheless, the Judiciary is one of the sectors that have a critical role in fighting corruption. The likelihood of encountering corruption in the Judiciary increased from 3.7% in 2015 to 6.1% in 2016, and this is above the average of 4.9% for all the sectors concerned in the study (RBI 2016). Furthermore, 10% of citizens who dealt with the Judiciary claim to have experienced corruption when interacting with courts professionals.

The loopholes that make the Judicial sector be more vulnerable to corruption are mostly based on the gaps in the laws in relation to the definitions or classification of corruption offences as well as lack of integrity of some legal professionals in the judicial sector (investigators, prosecutors, judges and advocates) who are more personal interests oriented. Therefore, some of the main problems are that some corruption crimes are not clearly defined as such, which give them less weight. It is against this background that TI-Rwanda conducted a research on the usable laws related to the prevention and fight against corruption in Rwanda, first, to identify the gaps that can impede their implementation and, second, to find out the deficiencies in their implementation through the analysis of the cases of corruption and related offenses that have been handled by the courts.

The research focused on the way judges apply the laws in adjudicating cases of corruption and other related offences through the assessment of court judgements. The purposes of the assessment of court judgements were to analyze the implementation of the laws related to corruption through the quality of the decisions of legal professionals in the judiciary from the case investigation, prosecution to the court judgement, analyze the professionalism and impartiality in the interpretation and application of the existing anti-corruption laws and provide an overview over legal conclusions reached by tribunals and courts over the cases.

The assessment was based on various criteria with the special focus on principles provided by the law. The research has started from the period of pretrial; how judges deal with the issue of serious ground which is seen as a key condition for a suspect to be held in prison before the final judgment. It further considered the trial phase. In this part, the research has analyzed the issue of qualification of offences, the assessment of moral and material elements, the application of mitigating circumstances, aggravating circumstances, suspension of penalties and, in a broader sense, the way judges deal with the issue of punishments.

METHODOLOGY

In order to conduct smoothly the research on the assessment of the court judgements the following methods have been used.

1. Desk review

Legal researchers, under the supervision of the Senior Project Coordinator, have conducted a desk review on the laws on corruption and related offences. This desk review outlines existing laws and policies on corruption and related offences within Rwanda. The focus is being put on assessing the gaps in laws related to the corruption and related offenses.

2. Conduct assessment of corruption cases

For assessing the court judgements, the researchers prepared the assessment guide, collected court judgements from different courts and fixed the criteria for the cases selection.

a) Preparation of the assessment guideline

Legal Researchers have prepared the guidelines for assessing the court judgments. The guide explains how the cases are filtered by categories, what is known as thematic crimes. The Case Map (spreadsheet) has been created and it helped to map major conclusions reached by the tribunals and courts when discussing whether each suspect should or not be held responsible for the crimes alleged.

b) The collection of court judgments

Legal Researchers collected court judgements on corruption and related offences from 16 courts. In total 975 court judgements on corruption and related offences (including embezzlement) were availed by the selected courts. We have also taken a sample of judgements on pretrial detentions in Rusizi Intermediate Court (9 cases) and High Court (54 cases).

The table below shows the number of court judgements on corruption and related offences in each court.

Table 1: Cases collected from each court

Location	Court name	Number of court judgements		
		Corruption	Embezzlement	Pre-trial
The City of Kigali	Gasabo Intermediate Court	43	41	
	Nyarugenge Intermediate Court	125	101	
	High Court/Kigali	22	63	54
	Supreme Court	5	0	
Sub-total		**190**	**205**	
Eastern Province	Ngoma Intermediate Court	44	10	
	High Court/Rwamagana	17	34	
	Nyagatare Intermediate Court	24	34	
Sub-total		**85**	**78**	
Northern Province	Gicumbi Intermediate Court	18	19	
	Musanze Intermediate Court	42	33	
	High Court/Musanze	8	0	
Sub-total		**68**	**52**	
Western Province	Rubavu Intermediate Court	21	15	
	Rusizi Intermediate Court	8	10	9
	High Court/Rusizi	8	13	
Sub-total		**37**	**38**	
Southern Province	Huye Intermediate Court	18	43	
	High Court/Nyanza	24	21	
	Muhanga Intermediate Court	48	0	
Sub-total		**90**	**64**	
Grand total		**475**	**437**	**63**
		975		

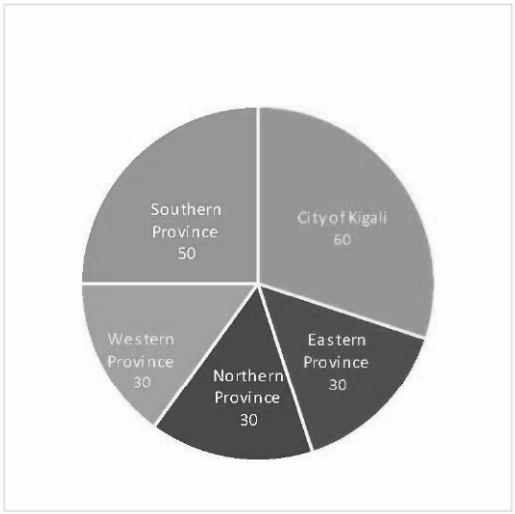
c) Selection of corruption cases to be analyzed

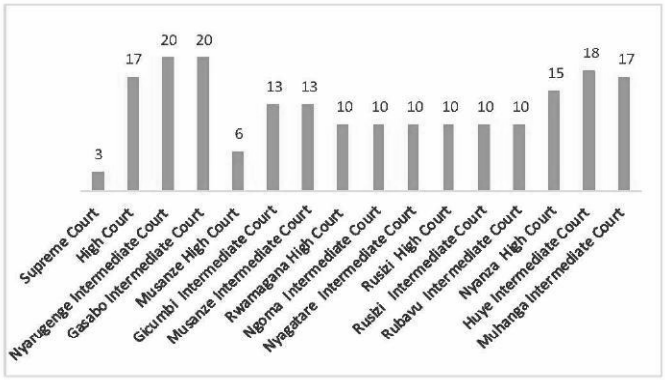
After collecting all court judgements, the Legal Researchers proceeded with the selection of cases to be assessed. At least 200 cases of corruption and related offences, handled by the Intermediate courts, High Court and the Supreme Court have been selected.

Selection by territorial jurisdiction

The table below illustrates the number of cases selected in the courts by province and the city of Kigali

Figure 1: Cases selected by territorial jurisdiction





The geographic coverage was also taken into account: 60 court judgements from Kigali City, at least 30 court judgements from Each Province. Selected cases comprise 20% of acquittals and 80% of convictions.

Selection by thematic crime

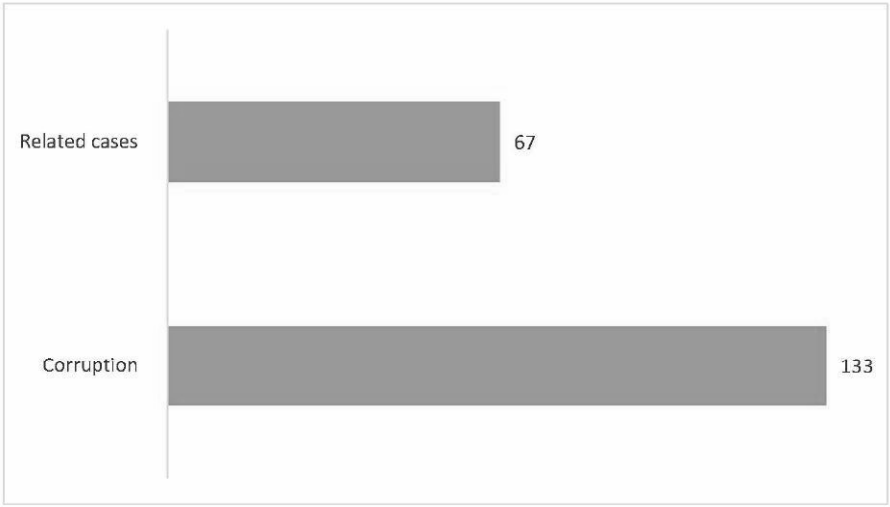
The selection process focused on the court judgements which are related to the following offenses:

- Bribery
- Accumulation of property without legal justification
- Illicit enrichment
- Embezzlement, theft or fraud

Among the cases analyses, 133 cases are related to corruption and 67 on corruption related offenses, mainly embezzlement, illicit enrichment and award of unjustified advantages. The

offenses such as money laundering, trafficking of influence, favouritism and nepotism, abuse of a position, abuse of power and abuse of honour have not been identified in the case law.

Figure 2: Cases selected according to thematic crime



Selection of cases according to the level of process

The selection of cases also takes into account the level of process in order to make sure that the cases from the pretrial detention to the trial and appeal levels are assessed.

Table 2: Cases selected according to the level of process

Name of the Court	Pretrial detention	Trial	Appeal	Total
IC Nyagatare	0	9	1	**10**
IC Ngoma	0	8	2	**10**
IC Rubavu	0	10	0	**10**
IC Rusizi	4	9	1	**10**
HC Rwamagana	0	0	10	**10**
HC Nyanza	0	0	1	**1**
IC Huye	3	0	0	**3**
IC Muhanga	0	0	0	**0**
IC MUsanze	0	0	0	**0**
HC Musanze	0	0	1	**1**
HC Kigali	8	0	9	**17**
IC Nyarugenge	1	18	1	**20**
IC Gasabo	1	19	0	**20**
IC Gicumbi	0	13	0	**13**
HC Rusizi	0	0	10	**10**
Supreme Court	0	0	3	**3**
GRAND TOTAL	**17**	**86**	**39**	

Selection by gender

It was also expected to select cases based on gender balance (50% male and 50% female). However, we realized that, in practice, the cases of corruption and related offenses involve more men than women and therefore, this criterion was not met.

Table 3: Cases selected by gender

Name of the Court	Male	Female	Total
Nyagatare Intermediate Court	10	0	10
Ngoma Intermediate Court	10	0	10
Rubavu Intermediate Court	8	2	10
Rusizi Intermediate Court	7	3	10
Rwamagana High Court	9	1	10
Kigali High Court	8	9	17
HC Nyanza	15	4	19
IC Huye	28	2	30
IC Muhanga	17	2	19
IC Musanze	19	2	21
HC Musanze	7	1	8
IC Nyarugenge	15	6	21
IC Gasabo	22	3	25
IC Gicumbi	12	1	13
HC Rusizi	11	0	11
Supreme Court	4	0	4
Total	**202**	**36**	**238**

Among the 238 defendants in the analyzed cases, 202 were males whereas only 36 were females. The number of all defendants in this regard is over 200 analyzed cases merely because in a single case, it was possible that there is more than one defendant. This was the case for example for cases of joint liability.

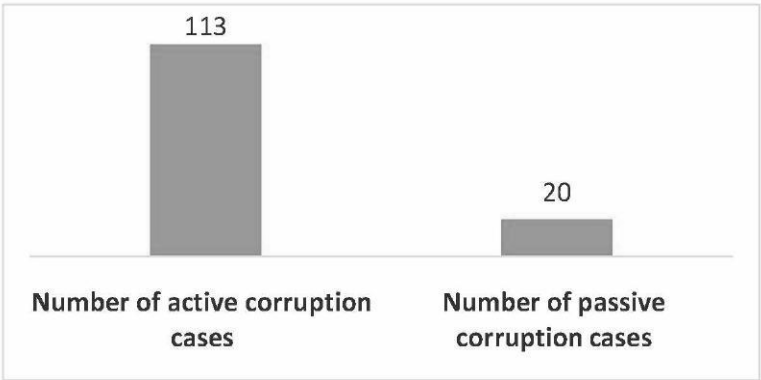
d) **Categorization of corruption cases**

The cases analysed in this research have been categorized as cases related to active corruption, passive corruption, private corruption, public corruption, petty corruption and grand corruption.

Active corruption and passive corruption

Active corruption is used to describe the act of offering an illicit payment or undue advantage whereas passive corruption relates to the acceptance or solicitation of such a payment or advantage[1].

Figure 3: Number of cases related to active and passive



Out of 133 analyzed corruption cases, 113(85%) cases involve individuals offering illicit payment or undue advantage (active corruption) whereas only 20(15%) cases relate to the acceptance or solicitation of such a payment or advantage (passive corruption). It is to note that related offenses (embezzlements) are not considered since they cannot qualify for the above category.

Public and private corruption and related offenses

The difference between public and private corruption is related to the difference in the sectors where participants of the illicit act come from[2]. Public corruption involves a public official (whether domestic or foreign) as one party to the corrupt act, whereas private corruption involves only individuals in the private sector[3]. Public procurement is susceptible to bribery, in both, the private and public sector[4]. The Rwandan Penal Code criminalizes the corruption in both the private and public sectors.

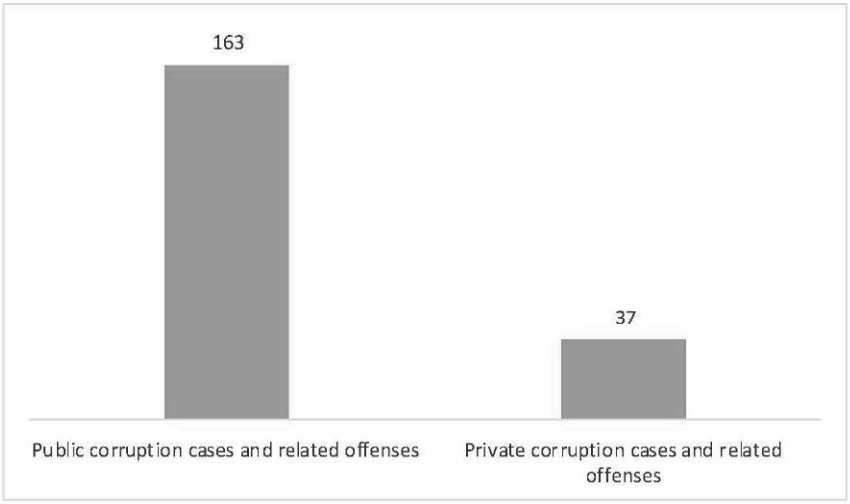
Frequent examples of corruption in the private sector are corrupt banking and finance officials that are bribed to approve loans and individuals, employees in the public and private sectors that

[1] UNODC, *Anti-corruption toolkit*, 3rd Edition, United Nations, Vienna, 2004, p. 11.
[2] Public Safety Canada, *Corruption in Canada: Definitions and Enforcement*, May 2014, p.12.
[3] *Ibid.*
[4] United Nations, *op.cit.*, p.30.

are often bribed to disclose confidential information and protected personal details for a host of commercial reasons[5].

Corruption in the public sector is perceived to be a much greater threat to society than purely in the private sector. This is also due to the fact that citizens are directly involved and experience corruption more often in the public sector (e.g. in service delivery). Unlike in private companies where clients or suppliers have the possibility to choose between companies, the citizens have less options among service providers in the public sector and thus, they are more involved to bribe in order to get a service[6].

Figure 4: The number of cases analysed in public and private sectors



The majority of analyzed corruption cases, i.e. 81.5 %, involves a public official as one party to the corrupt act (public corruption) whereas 18.5 % involves individuals in the private sector (private-to-private corruption).

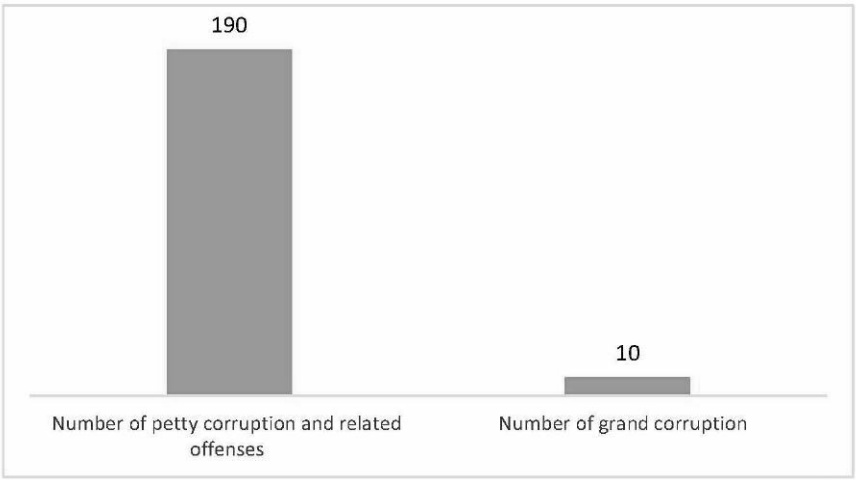
As stated above, the prominence of corruption cases in the public service is mainly justified by the kind of services delivered by public institutions that the population cannot receive elsewhere in private service providers. Some people that are facing delay, refusal of or are not eligible for a service often offer bribes to or are solicited to give bribes by public servants in order to get a service delivered. The same also happens to people who have been fined for contravening to regulations and in order to escape penalties offer bribes to law enforcement organs.

[5] *Ibid.*
[6] Public Safety Canada, *op. cit.*, p.12.

Petty corruption and grand corruption and related offenses

According to the United Nations, grand corruption is defined as the corruption that pervades the highest levels of a national Government, leading to a broad erosion of confidence in good governance, the rule of law and economic stability. In contrast, petty corruption can involve the exchange of small amounts of money, the granting of favors by those seeking preferential treatment or the employment of friends and relatives in minor positions[7]. For the purpose of this study, grand corruption will also include cases of corruption involving public senior officials up to the level of the District's Executive Secretary and senior officials in the senior management of private organizations. Furthermore, grand corruption in this study includes cases of corruption and related offenses of very large amounts of money i.e. over one hundred millions of Rwandan francs.

Figure 5: Number of cases related to petty and grand corruption



Out of 200 analyzed cases on corruption and related offenses, 190 cases i.e. 95% were found to be petty corruption. Those are cases involving public administration officials, non-elected officials and small amounts of money (petty corruption) and 10 cases i.e. 5% involving senior government and private officials and elected officials and the amount of money were analyzed.

Among the 10 grand corruption-related cases, 2 cases involve senior government officials, 1 case relates to a senior elected official in a private religious organization and the remaining 7 cases are about embezzlements of big amounts of money or properties of considerable.[8] In all the 10

[7] UNODC, *op.cit*, p. 12.

[8] The amount which was taken into account is an amount which exceeds one hundred millions of Rwandan Francs.

cases, the accused were charged with embezzlement. In all 7 cases, the accused were convicted and ordered to restitute the embezzled amount of money to the victims and in 2 cases, the accused were provisionally released waiting for trial. In only one case, the accused were acquitted.

After selecting the cases, legal researchers started the assessment of selected cases. In general, the following aspects of the judgements are being focused on in the assessments:

- The definition of the offense
- Legal elements of the crime
- Charges and Defenses
- Court decision
- Sanctions
- Confiscation of seized assets

For the purpose of capturing all parameters of the research topic, the report has been divided into three main parts. The part summarizes the desk review on anti-corruption laws in Rwanda. In this part, various laws and literature have been visited in order to assess the Rwandan legal framework while comparing it with pertaining international legal instruments which have been duly ratified by Rwanda. Furthermore, the research considered also various literature available on corruption and related offences. The second part focuses on the analysis of 200 selected cases on corruption and related offences from different courts and tribunal. The third part is dedicated to the conclusion which contains a brief summary of the findings and it has also suggested some recommendations.

The text below is based on the laws that were in use when the research was conducted. It is worth to note that the new laws have been enacted before the publication of this report. Law n° 54/2018 of 13/08/2018 on fighting against corruption, the Law n° 68/2018 of 30/08/2018 determining offences and penalties in general and the Law n° 69/2018 of 31/08/2018 on prevention and punishment of money laundering and terrorism financing. These laws may contain new changes on prevention and criminalization of corruption and related offenses.

PART I: DESK REVIEW OF THE LAWS ON CORRUPTION AND RELATED OFFENSES

I. 1. Anti-corruption legal framework in Rwanda

This chapter focuses on the legal measures for the fight against corruption and related offences that were put in place in Rwanda. The chapter compares and contrasts the United Nations and African Union anti-corruption conventions, both ratified by Rwanda[9], with Rwandan laws, with a view to evaluating the Rwandan legal regime on corruption. Especially, it critically examines to what extent the Rwandan legal regime of corruption and related offences incorporates the measures provided by these conventions.

I.1.1 Legal regime of corruption and related offences in Rwanda

To understand better the legal regime of anti-corruption and related offences in Rwanda, it is important to look at the international and regional commitments made by Rwanda. By analyzing those international and regional commitments, it is easier to understand where Rwanda stands at the national level. For the purpose of this report, we focus on United Nations Convention against Corruption, at the international level, and the African Union Convention on Preventing and Combating Corruption, at the regional level.

I.1.1.1 At the international level

The background and the contents of the UNCAC are described in this section.

1. Background of the UNCAC

On January 22, 2001, the U.N. General Assembly recognized, in Resolution 55/61, that a global international convention was necessary to combat international corruption[10]. On October 31,

[9] See, for example, United Nations Convention against corruption, General Assembly resolution 58/4 of 31 October 2003, United Nations, *Treaty Series*, vol. 2349, ratified by Rwanda on 4/10/2006; African Union Convention on Preventing and Combating Corruption, adopted in Maputo on 11 July 2003, ratified by Rwanda on 25/06/2004 (hereafter AU Convention).

[10] See United Nations, "Resolution 55/61 on an effective international legal instrument against corruption", General Assembly, Fifty-fifth session, *A/RES/55/61*, 22 January 2001: "*Recognizes* that an effective international legal instrument against corruption, (...) is desirable; *decides* to begin the elaboration of such an instrument in Vienna (...)".

2003, the General Assembly adopted the United Nations Convention Against Corruption (UNCAC) in Resolution 58/4[11]. When one reads the UNCAC, it is in no doubt that it constitutes the most comprehensive anti-corruption legal framework in many aspects and a good starting point to map the issues and provisions that should be covered by domestic legislation.

However, few striking things are to mention. The UNCAC does not define corruption as such. It rather defines specific acts of corruption that should be considered in every jurisdiction covered by UNCAC. These include bribery and embezzlement, money laundering, concealment and obstruction of justice[12]. Also, in defining who might be considered as possible participants in corruption, UNCAC uses **a "functional approach"** to the term "public official": it covers anyone who holds a legislative, administrative, or executive office, or provides a public service, including employees of private companies under government contract[13].

2. Contents of UNCAC

The UNCAC contains the provisions on preventive measures, criminalization, international cooperation and assets recovery. However, for the purpose of this research, the part of the UNCAC related to criminalization is only summarized here[14].

Criminalization and law enforcement

Chapter III of the UNCAC deals with the criminalization of the acts deemed constitutive of corruption. Under this chapter, States Parties must criminalize bribery (both the giving of an undue advantage to a national, international or foreign public official and the acceptance of an undue advantage by a national public official), as well as embezzlement of public funds. Other offences that States Parties are required to criminalize include obstruction of justice and the concealment, conversion or transfer of criminal proceeds. Sanctions extend to those who participate in or attempt to commit corruption offences.

Acts that states are encouraged, but not required, to criminalize include acceptance of bribes by foreign and international public officials, trading in influence, abuse of function, illicit

[11] See the annexe of United Nations, "Resolution 58/4 on the United Nations Convention against Corruption", General Assembly, *Fifty-eighth session, A/RES/58/4*, 31 October 2003.
[12] See articles 15-25 UNCAC.
[13] See article 2 (a) of the UNCAC.
[14] For more details about the content of the UNCAC, see annex 1.

enrichment, bribery and embezzlement within the private sector, money laundering and the concealment of illicit assets[15]. Chapter III of the UNCAC also covers other issues related to enforcement and prosecution, including liabilities, protection of whistleblowers and witnesses in corruption cases, as well as remedies for corruption, such as freezing assets and compensating victims[16].

In a nutshell, the UNCAC requires the states to:

- Outlaw the offering or soliciting of a **bribe** by a **national public official** (Article 15)
- Outlaw the promise, offering or giving of a **bribe** to a **foreign public official** (Article 16)
- Outlaw **embezzlement** (Article 17)
- Outlaw **money laundering** (when proceeds of a crime are transferred intentionally for the purpose of concealing or disguising their illicit origin) (Article 23)
- Ensure the **obstruction** of corruption investigations, and **attempts** to commit corrupt acts are criminal offences (Articles 25 and 27)
- Provide a **long statute of limitations** for bribery and other corrupt acts and provide for its suspension when an offender has evaded prosecution (Article 29)
- Make sure the penalties for corrupt acts reflect the gravity of the offence, that **immunities** for public officials are not overbroad, and that if there is discretion to prosecute it is exercised with due regard for the need to deter corruption (Article 30)
- Take measures to ensure **protection for whistleblowers** (Article 32)
- Establish procedures to **freeze, seize, and confiscate the proceeds** of corrupt acts and permit those injured by corrupt acts to initiate an **action for damages** (Articles 31 and 35)
- Remove any obstacles posed by **bank secrecy laws** to investigating corruption (Article 40).

In sum, UNCAC lays down an international legal basis for cooperation between countries and between governments and their citizens to dismantle corruption. It also provides universally agreed concepts of corruption and ways to address it within one framework, thus offering an opportunity to overcome hitherto fragmented and often piecemeal efforts. The following section summarizes the AU Convention on corruption.

[15] See articles 15-25 of the UNCAC.
[16] See articles 26-33 of the UNCAC.

I.1.1.2. At the regional level: The AU Convention

The background and the content the AU Convention are discussed in this section.

1. Background of the AU Convention

At the regional level, there is one anti-corruption instrument that is of direct relevance for this report. That is the African Union AU Convention on Preventing and Combating Corruption (2003)[17]. The African Union Convention on Preventing and Combating Corruption was adopted in Maputo on 11 July 2003, entered into force on August 05, 2006, to fight rampant political corruption on the African continent. It represents a regional consensus on what African states should do in the areas of prevention, criminalization, international cooperation and asset recovery.

The Convention covers a wide range of offences including bribery (domestic or foreign), diversion of property by public officials, trading in influence, illicit enrichment, money laundering and concealment of property[18]. As of March 2018, the treaty had been ratified by 38 states[19]. in the following section, a detailed analysis of the contents of the AU convention can be found.

2. Contents of the AU Convention

As our research focus on the implementation of anti-corruption laws by courts, the analysis focuses on the criminalization of corruption and related offenses by the AU Conventions. For more details on the contents of this convention, consult the annex 1.

Criminalization and law enforcement

The AU Convention, as the UNCAC, requires the Member States to criminalize corruption and related offences under its domestic law and contains similar provisions, with different levels of details, in terms of prohibiting the acts corruption and related offences. In summary, the AU Convention requires states to:

- Prohibit active and passive corruption (article 4, a,b,e,f).

[17] See African Union Convention on Preventing and Combating Corruption, adopted in Maputo on 11 July 2003, ratified by the Presidential Order n° 12/01 of 24/06/2004 (hereafter AU Convention).
[18] See articles 4,6,8 of the AU Convention.
[19] See African Union, " List of countries which have signed, ratified/acceded to the African Union Convention on preventing and combatting corruption", Addis Ababa, Ethiopia, 15/12/2017, available at https://au.int/sites/default/files/treaties/7786-sl african_union_convention_on_preventing_and_combating_corruption_5.pdf, acceded on 08/03/2018.

- Outlaw the diversion of property by a public official or any other person of any property belonging to the state or its agencies (article 4, d).
- Outlaw private sector corruption (article 4, e, f).
- Outlaw improper use of influence by officials (article 4, f)
- Outlaw the laundering of proceeds of crime (article 4, h, and 6, a).
- Outlaw illicit enrichment (article 4, g and 8)
- Outlaw funding of political parties (article 10)
- Outlaw the embezzlement: is it necessarily the diversion of property? (article 4, d)
- Outlaw the misappropriation or other types of diversion of property by a public official (article 4 (d).
- Remove any obstacles posed by **bank secrecy laws** to investigating corruption (article 17).

However, the AU Convention does not contain any provision on **bribery of foreign officials and the obstruction of justice**. Furthermore, contrary to the UNCAC, the AU Convention does not deal with sanctions or penalties in case of the commission of an offence or non-compliances with prescribed measures[20].

In summary, the AU Convention represents a significant step in the efforts to develop international standards to counteract the systemic corruption across Africa. In effect, the Convention imposes obligations on African countries to take a leadership role in the international fight against corruption in the public and private spheres.

However, the AU Convention suffers from the excessive use of claw-back clauses which tend to limit or undermine some of its progressive provisions. For example, article 7 provides that any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and prosecution of such officials, "*subject to the provisions of domestic legislation*". Under article 8, state parties are required to establish under their laws an offence of illicit enrichment "*subject to the provisions of their domestic laws*". Similarly, article 14 provides for the right to a fair trial for those suspected to have committed acts of corruption "*subject to domestic law*". These clauses can permit a state, in its almost unbounded discretion, to restrict its treaty obligations to eradicate corruption within its territory. By granting supremacy to national

[20] See article 26 and 30 of the UNCAC.

laws, the clauses also could seriously emasculate the effectiveness of the Convention as well as its uniform application by member states.

Furthermore, the AU Convention lacks any serious, effective or meaningful mechanism for holding states accountable for the obligations they assume under it, or for resolving disputes among state parties, including a potential claim by one party that another is failing to properly carry out its obligations. Having analysed international and regional commitments in the fight against corruption, the following section analyses how Rwandan legislations conforms to those international and regional arrangements.

I.1.1.3 At the national level

It is worth to remind that Rwanda has ratified both the UNCAC and the AU Convention on corruption[21]. It has then the obligation to implement those conventions. In doing so, Rwanda has enacted different laws aiming at preventing and combating corruption and related offences. It is also worth to note that the legal infrastructure on corruption in Rwanda is characterized by fragmented laws instead of having a single act that governs all prohibited acts of corruption and related offenses[22]. For the purpose of this report, researchers look at what is prohibited as an act of corruption in the Rwandan context in order to shed a light on the Rwandan compliance with

[21] See United Nations Convention against corruption, General Assembly resolution 58/4 of 31 October 2003, United Nations, *Treaty Series*, vol. 2349, ratified by Rwanda on 4/10/2006; African Union Convention on Preventing and Combating Corruption, adopted in Maputo on 11 July 2003, ratified by Rwanda on 25/06/2004.

[22] The constitution of the Republic of Rwanda of 2003 revised in 2015, *O.G.*, n° Special of 24/12/2015; Organic Law n° 61/2008 of 10/09/2008 on the leadership code of conduct, *O.G.* n° 24 of 15/12/2008, as modified and complemented by Organic Law n° 11/2013/0L of, *Official Gazette*, 11/09/2013; Organic Law n° 03/2012/OL of 13/06/2012 determining the organization, functioning and jurisdiction of the Supreme Court, *O.G.*, n° 28 of 09 July 2012; Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code, in *Official Gazette*, n° Special of 14 June 2012; Law n° 47/2017 of 23/9/2017 governing the organisation of banking, in *Official Gazette*, n° 42 of 16/10/2017.; Law no 44bis/2017 of 06/09/2017 relating to the protection of whistleblowers, *Official Gazette*, no 41 of 09/10/2017; Law n° 42/2014 of 27/01/2015 governing recovery of offence-related assets. *O.G.*, n° 07 of 16 February 2015; Law n° 30/2013 of 24/5/2013 relating to the code of criminal procedure, *O.G.*, n° 27 of 08/07/2013; Law n° 45/2008 of 09/09/2008 on counter terrorism, *O.G.*, n°14 of 06/04/2009; Law n°47/2008 of 09/09/2008 on prevention and penalising the crime of money laundering and financing terrorism, in *Official Gazette*, n° 12bis of 23 03 2009; Law n° 12/2007 of 29/03/2007 on Public Procurement, (in Official Gazette n° 8 du 15/04/2007), as modified and completed by the Law N°05/2013 of 13/02/2013, in *Official Gazette*, n°16 0f 22/04/2013; Law n° 23/2003 of 07/08/2003 on preventing, suppression and punishment of corruption and related offenses; Presidential Order n° 64/01 of 12/02/2014 determining the responsibilities, organisation and functioning of the Advisory Council to fight against corruption and injustice, *O.G.*, n° Special of 27/02/2014; Presidential Order n°54/01 of 19/08/2010 determining the modalities for a leader to receive or give donations and gifts, *O.G.*, n° special of 02/09/2010; Ministerial Order n°005/07.01/13 of 19/12/2013 determining which information could destabilize national security, *O.G.*, n° 02 of 13/01/2014; Ministerial Order no006/07.01/13 of 19/12/2013 determining in details the information to be disclosed, *O.G*, n° 02 of 13/01/2014; Ministerial Order n° 008/07.01/13 of 19/12/2013 determining the procedure of charges of fees related to access to information, *O.G.* n° 02 of 13/01/2014.

the international and regional conventions mentioned above. For that reason, the research focuses on the specific law on corruption (the Law n° 23/2003 of 07/08/2003 on preventing, suppression and punishment of corruption and related offences) and compare and contrast it with other existing laws with the same spirit of preventing and combatting corruption (e.g. the Penal Code).

Law n° 23/2003 of 07/08/2003 on preventing, suppression and punishment of corruption and related offences[23]

The Rwandan law on corruption is as old as the UNCAC and the AU Convention on corruption because it was drafted, adopted and promulgated when the UN and AU were also working on their respective conventions. Thus, comparing the 2003 Law on corruption alone with the UNCAC and the AU Convention on corruption would be misleading as it may contain many gaps. For that reason, when comparing the 2003 Law on corruption, researchers are obliged to make reference to any other law that modifies or complements the 2003 law on corruption.

It is worth to note that the section related to offences and sanctions of the 2003 law on corruption was copied and pasted in the 2012 Penal Code, but the research did not find any source indicating that the section on offences and sanctions of the 2003 law on corruption was abrogated. The following section discusses the criminalization of corruption and related offenses in Rwanda[24].

Criminalization and law enforcement

In practice, the law n° 23/2003 of 07/08/2003 on preventing, suppression and punishment of corruption and related offences is no longer applied when it comes to criminalizing and punishing corruption and related offences. Thus, in 2012 a section of the above law on offences and sanctions was moved to Penal Code[25]. Therefore, the reference will be made to the penal code and other relevant laws.

According to article 633, 1°, of the Organic Law n° 01/2012/OL of 02/05/2012 instituting the penal code, art 633,10, corruption is considered as:

[23] In *Official Gazette* of 03/09/2003 (hereafter the 2003 law on corruption).
[24] See the comparison between UNCAC, AU Convention and Rwandan anti-corruption laws in annex 1.
[25] See articles 633-650 of the Penal Code.

the abuse of position, power or honour one enjoys within a state organ, in a public or private institution, in a foreign company or international organization working in the country, by giving to oneself, giving to others or requiring an illegal benefit or a service contrary to the law; accumulation of property without legal justification; giving or agreeing to give a gift in cash or any other illegal benefit to benefit from an illegal advantage or a service contrary to the law; soliciting, receiving or accepting to receive a gift in cash or any other illegal benefit for the provision of a service in an unlawful way or to be rewarded for the service or act rendered, either by the recipient or an intermediary.[26]

To paraphrase the above provision, corruption is defined as an act of conferring a benefit in order to influence improperly an action or decision. It can be initiated by a person who asks for a bribe, or by a person who offers to pay one. Illegal benefits can be cash, company shares, inside information, sexual or other favors, entertainment, employment or a mere promise of a benefit in the future (such as a retirement job).[27] Furthermore, the Penal code provides for the corruption in public and private sectors; categories of individual persons involves in corruption such as giver, solicitor and receiver. This categorization of corruption and related sanctions are discussed in details[28].

Rwanda criminalizes the bribery (both the giving of an undue advantage to a national, international or foreign public official and the acceptance of an undue advantage by a national public official or by foreign and international public officials), trading in influence, and abuse of function, illicit enrichment and bribery in the private sector. However, some offences are criminalized but out of the context of corruption and related offences. Those are the embezzlement, obstruction of justice, the concealment, conversion or transfer of criminal proceeds and money laundering.

Sanctions on corruption and related offences extend to those who participate in or attempt to commit corruption offences. For the issues related to enforcement, protection of witnesses, as well as remedies for corruption and related offences, separates laws related to the protection of whistleblowers and witnesses in corruption cases and offence-related assets recovery have been

[26]Organic Law n° 01/2012/OL of 02/05/2012 instituting the penal code, art 633,1°

[27] United Nations, *Handbook on practical anti-corruption measures for prosecutors and investigators*, Vienna, 2004, p. 25.

[28] For a comparison of sentences, see articles 634, 635, 640 and 641 of the Penal Code.

enacted. However, there are no specific provisions for compensating victims in anti-corruption laws apart from the civil action for damages provided for in the criminal procedure[29].

In a nutshell, the Rwandan legal infrastructure on corruption and related offences prohibits:

- Active and passive corruption (articles 633 (e), 634, 635, 640, 641 Penal Code).
- Private sector corruption (article 649 Penal code).
- Improper use of influence by officials (article 644, 645, 646 (sex) Penal Code)
- Money laundering, "as a crime not related to corruption" (Article 652-658 Penal Code)
- Illicit enrichment (article 636 Penal code)
- Funding of political parties by foreigners (see article 24, para.2, of the Organic Law n° 10/2013/0L of 11/07/2013 governing Political Organizations and Politicians)
- The embezzlement, "a crime not related to corruption" (Article 325 Penal code)
- Demanding favours of sexual nature in exchange for a service (article 637 Penal Code)
- Offering favours of sexual nature in exchange for a service (article 638 Penal Code)
- Corruption committed by judges, arbitrators, judicial officers, prosecutors, police officers or other judicial police officers- Special cases of corruption? (article 639 Penal Code)
- Demanding or receiving undue or excessive money (article 642 Penal code)
- Illegal exemption (article 643 Penal Code)
- Making a decision based on favouritism, friendship, hatred or nepotism (article 647 Penal Code)
- Appropriation of unlawful favours (article 648 Penal Code)
- Bank secrecy or other professional secrets to investigating corruption (article 35 of the 2003 law on corruption).

In brief, the Rwandan laws conform with international and regional conventions on corruption and related offenses[30]. It has been observed that many laws have been enacted in order to domesticate the UNCAC and AU Convention. For example, the research has identified more than eighteen laws that contain anti-corruption provisions. It is good to have such anti-corruption laws but one can wonder if there is no possibility of codifying all these laws and have a single law which contains all the provisions on corruption and related offenses. For practical reasons, it

[29] See articles 9-17 of the Law n° 30/2013 of 24/5/2013 relating to the code of criminal procedure, in *Official Gazette*, n° 27 of 08/07/2013.
[30] See the annex 1.

would be better to have a single law on preventing and combatting corruption and related offenses in Rwanda rather than having fragmented laws.

After analyzing the legal framework of corruption and related offenses in Rwanda, the following part focuses on the on implementation of these laws through the case law. It in general analyses the quality of the court judgements on corruption and related offenses.

PART II: ASSESSMENT OF COURT JUDGEMENTS ON CORRUPTION AND RELATED OFFENSES

The first part of this research focused on the existing legal provisions on corruption and related offenses. This part focuses on how these provisions are applied by courts of law through the analysis of the case law on corruption and related offenses. In this part, the focus is put on the results of the assessment of court judgements on corruption and related offenses.

II.1 Results of the assessment of court judgements on corruption and related offenses

In the assessment of the quality of court judgements, different legal issues have been identified. They can be categorized into criminal procedure (II.1.1) and substantive criminal matters (II.1.2).

II.1. 1. Criminal procedural matters

The assessment of the case law on criminal procedure matters focused on the provisional detention, provisional release and release of the accused on bail.

II.1.1.1. Provisional detention

In principle, a suspect is entitled to be free during the time of the investigation[31]. However, the suspect may be held in provisional detention if the conditions provided for under articles 96 and 97 of the Law on criminal procedure are met."[32] Some of the conditions of provisional detention are the interest of the preparation of the case file, security of accused, national security, serious grounds[33] to suspect a person of having committed an offense or if the suspect is accused to have committed an offense punishable with at least two (2) years' imprisonment.[34]

[31] Article 89, paragraph 1, of the law on criminal procedure.
[32]Article 89 of the law on criminal procedure.
[33] Article 97 of the law on the criminal procedure defines "serious grounds" in this manner: serious grounds for suspecting a person of an offense shall not be considered evidence but rather as plausible investigation facts leading to the suspicion that the suspect has committed an offense. Article 98 of the law on criminal procedure adds that adds that an accused person against whom there are strong reasons to suspect that he or she has committed an offence can be put under provisional detention, even if the offence he or she is suspected to have committed is punishable with an imprisonment which is less than two (2) years but exceeding one month, if there is fear that he or she can escape or, if his particulars are unknown or doubtful or if there are strong, unusual and exceptional

In this research, it was found that most of the judges, in pretrial phases, hold the accused in the pretrial detention. Among the reasons which have motivated their decision include:

- The serious ground to suspect that a person has committed an offense;
- The identity is unknown;
- The fear that the suspect can escape;
- The pretrial detention is the only solution to prevent the suspect from disposing of evidence.

In the analysis of court judgements, it was found that the term "serious ground" has been used without specifically determining what has been reached by the prosecution in the investigation and what can be understood as a "serious ground". Below are some of the examples of what different courts considered as "serious grounds":

- In the commission of the offense of embezzlement, the fact for a cashier ***to use the money deposited by a client without a prior authorization*** by the superior has been considered as a serious ground for pretrial detention. This has been regarded as an act of fraudulent conversion of property or money owned by one person (see R.D.P.A 00388/17/HC/KIG.)[35].
- ***The fact for being caught by the exact amount of money alleged by the victim*** was considered as a serious ground in the offense of corruption (see RDPA n° 00059/2017/TGI/RSZ)[36]

---

circumstances that urgently require the detention pending trial. These, unusual and exceptional circumstances that may urgently require the detention of a suspect pending trial may be:
A suspect may be subject to provisional detention if there are serious grounds for suspecting that he/she has committed an offence even if the alleged offense is punishable with imprisonment of less than two (2) years but more than three (3) months, if : 1° there is reason to believe that he/she may evade justice; 2° his/her identity is unknown or doubtful; 3° there are serious and exceptional circumstances that require provisional detention in the interests of public safety; 4° the provisional detention is the only way to prevent the suspect from disposing of evidence or exerting pressure on witnesses and victims or prevent collusion between the suspect and their accomplices; 5° such detention is the only way to protect the accused, to ensure that the accused appears before judicial organs whenever required or to prevent the offence from continuing or reoccurring; 6° given the serious nature of the offence, circumstances under which it was committed and the level of harm caused, the offense led to exceptional unrest and disruption of public order which can only be ended by provisional detention

[34] Article 96 of the law on Criminal Procedure.

[35] See High Coourt/Kigali, *Prosecution vs Uwizeye Ida*, case n° RPR.D.P.A 00388/17/HC/KIG, 16/08/2017.

[36] See Intermediate Court of Rusizi, *Prosecution vs MBANJINEZA Jonathan*, RDPA n° 00059/2017/TGI/RSZ, 28/07/2017.

- ***The fact of a cashier to have a loss of a certain amount of money without a justification*** has been also considered as a serious ground to suspect the cashier for having committed the offense of embezzlement (RDPA 00274/2016/HC/KIG).[37]
- ***The fact of a cashier to wrongly deposit and withdraw money from accounts of clients without a clear participation of owners of those bank accounts*** have been considered as a serious ground to suspect the cashier of having committed the offense of embezzlement (RDPA 00309/2016/HC/KIG).[38]
- ***The fact of fleeing the country and refusing to pick the phone up*** was retained by the court as serious grounds for pretrial detention.[39]
- ***Provisional evidences such as audit reports, testimonies from witnesses, the testimony of the accomplice*** were considered as serious grounds to provisionally detain a suspect of embezzlement.[40]

In this research, it was found that, even though provisional evidences such as audit reports were retained as a plausible suspicion culminating in suspicion of the commission of the offense, the practice was not uniform. For example, in the case RDP 00028/2017/TGI/HYE[41], there were internal audit reports, but these ones were not referred to as "serious ground" to suspect the commission of the crime. Instead, they have only used the amount of money as a "serious ground"[42].

This research found out that in most cases, prosecutors base only on the evidence gathered so far during the pretrial detention and ignore to conduct other surrounding investigations in order to convince the court. Then, during the pretrial detention, courts also tend to assess the seriousness of grounds basing on the evidence produced rather than investigations conducted. It has also been found that judges and prosecutors do not draw a nexus between material elements they have and the real intention to commit a crime during the provional detention. The consequence is that

---

[37] See High Court/Kigali, *Prosecution vs UWAMAHORO Irene*, Case n° RDPA 00274/2016/HC/KIG, 17/10/2016.
[38] See High Court/Kigali, *Prosecution vs UMUTESI Aldegonde*, Case n° RDPA 00309/2016/HC/KIG, 27/10/2016.
[39] See High Court Nyanza, *Prosecution vs Munyurangabo Emile*, Case n° RDPA 0013/16/HC/NYA, 22/03/ 2016.
[40] See Intermediate Court of Huye, *Prosecution vs MBASIGIYIMANA Javier and BAMPORIKI Jean Claude*, Case n° RDP 00143/2017/TGI/HYE, 27/09/ 2017.
[41] Intermediate Court of Huye, *Prosecution vs BURINDWI Antoine and UWITONZE Clarisse*, Case n° RDP 00028/2017/TGI/HYE, 20 March 2017.
[42] See High Court/Kigali, *Prosecutor vs Uwizewe Ida*, case n° RDPA 00388/17/HC/KIG, 16/08/2017, para 11. For example, *Prosecution vs BURINDWI Antoine and UWITONZE Clarisse*, cited above, the prosecution based on the testimonies from the beneficiaries of the Project while ignoring to collect other convincing evidences showing clearly the materiality of the act committed. The consequence was the non- consideration of serious ground which were brought by the prosecution even if, it was obvious that the accused did not respect the contract though he was fully paid.

one finds the cases in which the accused were provisionally detained by the prosecution, but released afterwards on the basis that there were no serious grounds to detain them[43].

II.1.1.2 Provisional release

A person who is under provisional detention can apply to the trial court to order a provisional released. In all offenses, an accused person or his/her counsel can, at any time, apply for provisional release to the public prosecutor charged with the preparation of the case or to a judge depending on the stage of the investigation. When the provisional release is guaranteed, the order may be accompanied by some measures of judicial control such as the restriction to travel to specific areas, living in a certain area, etc.[44].

During the assessment of the court judgements, it was found out that some of the causes which have been used by the judges to release the accused in the pretrial detention include:

- Lack of serious ground to suspect the accused[45];
- The sickness of the accused[46];
- The accused has furnished a surety[47];
- Assisting the court in finding the truth (confession of the accused)[48].

Form the above assessment, one may say that the causes for provisional release mentioned above are all lawful. However, some of them need more attention. For example, while assessing the

---

[43]For example, *Prosecution vs BURINDWI Antoine and UWITONZE Clarisse*, cited above, the prosecution based on the testimonies from the beneficiaries of the Project while ignoring to collect other convincing evidences showing clearly the materiality of the act committed. The consequence was the non- consideration of serious ground which were brought by the prosecution even if, it was obvious that the accused did not respect the contract though he was fully paid.

[44] In accordance wit article 107 of the law on criminal procedure Criminal Procedure, Some of the conditions, which can be imposed on the accused under provisional release, are: 1° to live in the area where the prosecutor charged with the preparation of the case file works; 2° not to travel beyond a prescribed area without obtaining prior permission of the prosecutor charged with the preparation of the case file or his or her representative; 3° not to travel to specific areas or not to be found in certain areas at given times; 4° to report at given periods before a public prosecutor who is charged with the preparation of the case file or a public servant or before any such other officer as may be determined by the judge;5° to appear before a public prosecutor in charge of preparation of his or her case file or before a judge when he or she will be required to do so; and, 6° to present persons of integrity who can stand for his or her surety.

[45] Intermediate Court of Huye, *Prosecution vs BURINDWI Antoine and UWITONZE Clarisse*, Case no RDP 00028/2017/TGI/HYE, 20 March 2017.

[46] See High Court/Kigali, *Prosecution vs Rwagasana Thomas*, Case n° RDPA 00387/2017/HC/KIG, 10 August 2017.

[47] See High Court/Kigali, *Rubingisa Pudence vs Prosecution*, case n° RDPA 00469/2017/HC/KIG, 03/10/2016.

[48] Intermediate Court of Huye, *Prosecution vs MBASIGIYIMANA Janvier and BAMPORIKI Jean Claude*, Case n° RDP 00143/2017/TGI/HYE, 25 September 2017.

sickness as a cause for provisional different factors should be taken into account. The applicant for provisional release should prove the gravity of the sickness (by a medical report) and prove that if he/she remains in the jail, his/her life will be in danger. Furthermore, if it is a curable disease, the decision of the court should consider to explore if there are no medical facilities to help the detainee.

For the "lack of serious grounds", it was found that in all cases where the prosecutors were not successful in obtaining a provisional detention of the suspects, they did not appeal in superior courts. Would one presume that the prosecution had brought cases before courts which they knew that there were no serious grounds to suspect that the person has committed the offense?

For the "confession of the accomplice", the accomplice confession has been considered as assistance to the court in finding the truth and therefore, the cause for provisional release[49]. Although, releasing someone who has assisted the court in find the truth (through confessions) can be seen as a good practice, accomplice confession should have independent corroboration to be sufficient. In other words, accomplice confession should not be considered as a sufficient evidence to the conviction. There should be other independent collaborative evidence to make sure that the confession reflects what really happened.

II.1.1.3 Release of the accused on bail

A judge, who is asked to rule on preventive detention, may release the accused on bail by authorizing him or her to execute a bond with or without any of the judicial control measures. The bail guarantees the appearance of the accused whenever required in court as well as payment of damages arising from the offense, property to be restituted and fines. Bail may be in form of a bond (a sum of money) or of a person standing as surety. Any person to stand as surety must be a person of integrity and have the means to pay. Where an accused person escapes justice, the surety shall pay compensation for the damages caused by the offense. A Judge determines the amount of bond to be paid by considering the value of the destroyed property, fine to be paid as well as the means of the accused person.

[49] See Intermediate Court of Huye, *Prosecution vs MBASIGIYIMANA Janvier and BAMPORIKI Jean Claude*, Case n° RDP 00143/2017/TGI/HYE, 25 September 2017.